MY NOTE BOOK

OF

RULES AND REGULATIONS

COLLECTORY AND FOUJDARY.

BY

HENRY CARRE TUCKER,

AGRA CIVIL SERVICE.

GOVERNMENT OF BENGAL

NIL DESPERANDUM.

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COMPILER'S PREFACE.

My NOTE BOOK having been useful to myself, and to my Subordinates, I am induced to think that a transcript in print may be of some service to my younger fellow servants, and to the large and important rising class of Uncovenanted Deputy Magistrates and Deputy Collectors.

I trust that this humble attempt to assist others may be judged leniently, and its many faults of omission and commission pardoned. It has no pretensions to be a correct and carefully prepared Law-Book, a work which I have neither time, strength, nor ability to execute; but it is simply what its title denotes, my private Note-Book of Rules and Regulations, printed on the best paper, with blank spaces as in the original, for the insertion of new Rules as they come out. Many who would not take the trouble to write out a Note Book for themselves, may, I hope, be induced to *keep up* the one thus commenced for them.

This Skeleton may also be useful to young men wishing to obtain a knowledge of the Regulations, but puzzled how, or where, to begin. By referring to the Regulations and Rules herein noted, they will obtain a pretty good idea of the Law in daily use in a Magistrate and Collector's Office.

I have to acknowledge with thanks the valuable assistance of Mr. David Simson, C. S., who has carefully gone over my notes, comparing them with the Regulations, and verifying the dates and numbers.

Any profit on the sale of the work will go to the *Baptist Mission Press.*

HENRY CARRE TUCKER, A. C. S.

Goruckpoor, August 21*st*, 1848.

*** N. B. Price 24 Rs.—Applications for copies to be made to the Superintendent of the *Baptist Mission Press*, Calcutta.

PREFACE TO THE SECOND EDITION.

THE speedy disposal of the 1st Edition of 299 copies having justified the hope that my NOTE BOOK might be found useful, I have endeavoured, so far as I was able, to improve this 2nd Edition.

The blank spaces have been omitted, as I believe it will be found more convenient to have blank paper bound up at the end of the volume for the entry, straight-on-end, of all long new Rules. If these are numbered, it will be easy to make a reference to them on the margin opposite the old notes to which they relate; whilst there is room in the margin for short Rules.

A counterpart in Oordoo is under preparation by Mr. P. Carnegy, Deputy Collector and Magistrate of this District, which will, I trust, be a great benefit to the higher classes of Revenue and Police officers.

There can be few greater benefits either to European or Native Officials, or to the people over whom they are placed, than to put before them the Rules under which they have to act, in a plain and simple form. If the Members of the Legislature would deign to look over such a book, it might perhaps suggest hints as to new Laws required, and old Rules needing amendment; and if Government would then boil down the whole into an authoritative Digest, the benefit to the administration of the country would be very great. It is not so much a new code we want, as a clear and concise exposition of the heterogenious mass of rules now in force, with such additions, alterations, and improvements, as the very preparation of such a Digest would force upon the Legislature.

As I am on my way to visit dear Old England, I must trust to the Superintendent to correct the press.

HENRY CARRE TUCKER.

Camp Goruckpoor, 12 P. M., *December* 14*th*, 1849.

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23.—My Note Book, Collectory and Foujdarry, 2nd Edition.
24.—Ditto ditto ditto ditto Urdoo Counterpart under preparation by P. Carnegy, Esq. Deputy Magte. and Collr. of Goruckpoor.

*** If every one would cause one school-book, or vernacular work, to be prepared and printed, we should soon have a goodly library of Vernacular Literature.

"*Nil Desperandum.*"

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RULES AND REGULATIONS,

COLLECTORY AND FOUJDARRY.

ABDUCTION of married woman living with her husband, or of unmarried woman under 15,—6 months and 200 Rs. or 6 months more. Aggravated cases to be committed to sessions, when S. J. can give 7 years hard labour, and 2 years instead of stripes. **ABDUCTION.**

S. 2. VII. 19. S. 6. XVII. 17. S. 2. II. 34.

Carrying off girls above 15, and attempting to sell them for purposes of prostitution, is punishable.

N. A. R. VI. 40.

Suit for *damages* in civil court is not barred by the Defendant having been already punished for Abduction by the Criminal Court.

Con. 1251. Sept. 29th, '39.*

The *forcible* abduction of any female, for any purpose, is punishable at discretion of Court.

N. A. R. V. 1. 332,

ABKARREE—see "Opium."—Any person convicted of manufacturing, or selling, spirituous liquors, taree, opium, &c. &c. without a license; to be fined by C. 500 Rs. commutable to 6 months in Civil Jail. **ABKARREE.**

S. 21. X. 13.

On malicious complaint, informer to pay 20 Rs. to the person unconvicted, or be confined 15 days.

C. 6. S 22. X. 13.

On false complaint, against Native officer, 50 Rs. fine, or 15 days.

S. 14. VII. 24.

Informer procuring malicious *search*, liable (from M. by XXIII. 48.) to 2 years with, or without, labour, and fine of 500 Rs. or 6 months additional. Also to civil damages.

S. 7. XXV. 40.

(I do not think any man should sit idle in Jail.)

* NOTE—The date is that of promulgation by the Western Court.

ABKARREE.

ABKARREE. Abkars are bound not to harbour robbers, thieves, or riotous persons, or to receive any goods, or wearing apparel, in barter for liquors;—to keep their shops shut at night, and not to harbour any person during the night, but to give information to police of any suspected person who may resort to their shops.

C. 4. S. 28. XX. 17.

The mere keeping open of a shop at late hours is not punishable, as disorderly conduct; but, should any misdemeanour occur, in consequence of the shop being open during prohibited hours, the Abkar may be considered disorderly, and be punished.

Con. 1345. July 1, '42.

Abkars are also punishable by forfeiture of License by Collector for selling at night, as breach of engagement. See form of License No. 4. X. 13.

No interest to be charged on arrears of Abkarree.

G. O. Oct. 18, '31. Board of S. C. O. Feby. 20, '34.

Taree to be exhibited distinct from other Abkarree collections.

No. 210. Augt. 26, '13.

Any person preventing lawful arrest by an Officer authorized to seize illicit stills, or unlawfully procuring release of person arrested, or obstructing search, or seizure of illicit stills, or liquors, or receiving such articles after seizure, or resisting such officer in legal process, liable before M. to 500 Rs. or 6 months. He is also liable in addition for any affray, or breach of the peace.

S. 6. XXV. 40.

Abkarree officer neglecting to report arrest, seizure, or search, within 24 hours, or conniving at escape. Dismissal; and 200 Rs. or 3 months; and three months more. The punishment may be enacted by any officer who can try cases in contravention of the Abkarree Laws.

S. 10. XXV. 40.

Abkarree officer vexatiously exceeding his duty. Dismissal; 6 months; and 200 Rs. or 6 months more, with, or without, labour.

S. 12. XXV. 40.

Person refusing to produce license to Abkarree Officer liable before Supts. of Abkarree to 3 months, *or* to 200 Rs. commutable to 3 months.

S. 14. XXV. 40.

Superintendent of Abkarree authorized to punish by IX. 41. S. 1. IX. 41.

Half of fines, and of articles confiscated, excepting opium, to be given to apprehending officer, and half to informer. If no fine be realized, reward not exceeding 200 Rs. may be recommended by Commissioner through S. B.

S. 15. XXV. 40.

ABKARREE.

Abkarree officer conniving at illicit sale, or manufacture, to be liable to the same penalty as the offender at whose act he connived.

S. 16. XXV. 40.

For second infraction of Abkarree laws, 6 months in civil jail, in addition to the penalty of the offence; and a similar extra 6 months for every subsequent offence.

S. 17. XXV. 40.

Lies relative to rum for exportation, are Perjury. Ditto Govt. officer knowingly signing false declaration, who is also to be dismissed.

S. 9. VI. 41.

On conviction of native officer of connivance at unlicensed shops,—Dismissal; and from M. 500 Rs. leviable by distress, commutable if unrealized, to 6 months.

C. 2. S. 13. VII. 24.

Informer giving information leading to conviction of a native officer for connivance, to have half the fine. Malicious and unfounded information against Native officer, 50 Rs. or 15 days.

S. 14. VII. 24.

Search warrants for distraint of goods for arrears of Abkarree revenue, or for illicit stills and spirits, to be executed only between sunrise and set; zenanahs not to be entered by Police, or Collector's people.

C. 3. S. 28. XX. 17. S. 24. X. 13.

Magistrate incompetent to suppress shops for the sale of liquors; but he may take cognizance of any disorderly conduct, or other crime of Abkar.

S. 32. X. 13.

Rules about Distilleries on European plan. II. 1802.

S. 14. X. 13, leaves the distiller to make his own bargain in procuring a site for his still, or shop. A Collector cannot interfere in this matter; but he will of course take care that no still, or shop whatever, is established except under his license. A Grantee cannot be forced to allow a shop in his grant; but when one has been once established, it should be maintained.

L. G. N. W. P. No. 3260. July 30, '45.

Rules about Rum. VI. 41, and Appendix XII. to "Directions."

Police Darogah equally entitled with other persons to half the penalty levied.

Con. 43. Nov. 10, '08.

Act to regulate licenses for sale of liquors in Calcutta, XXVI. 45.

When the duties in a pergunnah, or a cluster of pergunnahs are farmed, the farmer has full power to make with the distillers and sellers such arrangements as he may choose; but he is precluded from suffering any liquor to pass beyond the limits of his farm. *Directions.* 108.

ABKARREE. Bhang, or other intoxicating drug manufactured from the hemp plant, is liable to duty; but care should be taken that the collection of this duty does not impede the free cultivation of the plant. It is only the sale of the manufactured article which is taxable; the law offers no impediment to the cultivation of the plant, or its storing, or the manufacture of the fibre.

It is of importance that the Abkarree revenue be so managed as to be kept subordinate to the maintenance of a good police, and the preservation of the public peace. Revocation of license and suppression of the shop, should be made the penalty of all disorderly, or riotous conduct, or of anything tending to the disturbance of the public tranquillity.

Directions. 114.

In administering this department it is far from the duty of a Collector to aim at increasing the Govt. revenue by encouraging the consumption of liquors, or drugs. On the contrary, his object ought to be, by vigorously exacting the tax, to raise the price of the articles, and thus to diminish the consumption which would otherwise naturally take place.

Directions. 102.

Abkarree Jumma Wasil Bakee differs from the Land Revenue account inasmuch as it includes old balances in the demand, thus uniting the duties of Bukya Touzee and Jumma wasil bakee.

Manual. 16.

ABORTION. ABORTION, or procuring it, is not considered a heinous offence unless death ensue; and where this is not the case, is, like other charges contained in S. 12. XX. '17. not to be investigated by Darogah without orders of M. who had better take up such cases himself.

C. No. 303. Dec. 31st, 1824

Punishable with 7 years' hard labour, 2 years for stripes, labour commutable to fine. If Judge considers this insufficient, to transmit the trial, with report, to the N. A.

S. 2. LIII. '03. II. '34.

ABSCONDING AND EVASION OF PROCESS. For Prisoners escaping see "Escape."

ABSCONDING party to be proclaimed to appear within a month, when his land, or other real property may be attached by a precept on the Coll. who will immediately report to the Board. C. 2. S. 4. III. '04. Should the absentee not appear in 6 months, report to be made by M. to G. G. in C. for orders about the land.

C. 5. S. 4. III. '04. IX. '08.

Landed property of absentee in other zillahs can also be attached as above.

C. 4. S. 26. XX. '17.

ABSCONDING.

Should the absentee* not be a proprietor of land, his moveables to be attached, (C. 6.) an exact inventory made out before two or more respectable inhabitants, and the property made over in charge to head-man, or any two respectable inhabitants, after taking a receipt. (C. 8.) At the end of 6 months, should absentee not attend, the property to be at the disposal of Govt. in common with any landed property attached.

C. 10. S. 26. XX. 17.

Report requesting orders of Govt. to such property, to be transmitted quarterly through the Commissioner.

G. O. March 9, 1848.

Copy of proclamation to be sent to Collector and Tuhseeldars, and tom-tomed in village of residence, and thannah, on market-day, for three successive market-days.

C. 64. Feby. 24, '10.

Commr. should take care that these proclamations of persons suspected, or accused, of criminal offences be not issued on insufficient grounds; that is, without the existence of such proof against the party named in them as involved a strong presumption of his guilt. He should caution the M. upon this head, and take opportunities from time to time of examining and revising in communication with them the lists of proclaimed offenders in each district, striking out those persons against whom a sufficiency of proof does not exist, and making provision that this annulment of proclamation against them be made known to themselves and their friends, as well as to the Police.

G. O. Augt. 9, '49. See "Magistrate II. 2."

Judge not competent to attach portion of joint undivided estate; he must attach the whole, or none.

Con. 717. Sept. 21, '32.

Zumeendars near the place where affray occurred, cannot be compelled to certify that the absconded offenders are not in their villages, under S. 9. III. 12.

Con. 1352. July 25, '42.

Form of Writ for the attachment of moveable, or immoveable property of criminals absconded, to be used under XXIII. 40., the words "Land or other immoveable property" being employed when the attachment has reference to the rule in C. 4. S. 26. XX. 17.; and the words "goods, effects, and other property," when it has reference to C. 6. S. 26. "To Nazir. Whereas a Warrant was issued on the —— for the apprehension of ——, inhabitant of ——, to answer to a charge of ——; and afterwards a proclamation was made in conformity to S. 4. III. 04, for the appearance of the said ——; and whereas the said —— has failed to make his appearance within the time limited in the said proclamation; you are therefore hereby authorized and commanded to attach and sequestrate any (land or other immoveable property) (or, goods, effects,

* This applies only to persons resisting process or charged with heinous offence. See the Clause Also G. O. Jany. 18, '44.

ABSCONDING, AND EVASION OF PROCESS.

or other property) belonging to the said ——, and to hold the same under attachment and sequestration until otherwise commanded."

C. N. A. No. 232½. Augt. 28, '46.

Attachment of moveable property to be made by Nazir, or Darogah, in the presence of two or more respectable inhabitants of the village, and an exact inventory taken; after which the property shall be consigned to the care of the head-man, or any other respectable inhabitant, from whom a receipt should be taken.

S. 26. XX. 17.

Persons voluntarily taking charge of property under attachment, to be held responsible for its safety; otherwise, the person at whose instance the attachment is made.

Con. 958. July 17, '35.

ABSENCE.

Absence, see "Allowances."

Officers applying for Leave of Absence on Medical Certificate, must have them countersigned by Medical Board, or Superintending Surgeon of the Division, or they will be returned.

G. O. Nov. 7, '40.

Agra Officers applying for furlough, should send a duplicate of their application to the Secretary of Bengal Govt. General Department.

G. O. Sept. 10, '41.

No leave of absence shall have retrospective effect, except in cases of severe illness.

G. O. Jany. 11, '43.

Rules of January 29, '40, altered, and new Rules laid down—for Medical certificates—one month in each year—and acting allowance of 25 per cent. to officers on Subsistence, and 10 per cent. on 2000, and 5 per cent. on all above, to officers holding inferior substantive appointments. No Deputation allowance to be less than 100 Rs. Subordinate acting Superior in the same office, to get nothing for the first month. Civil officers specially deputed, to draw travelling allowance.

G. O. 17th May, 1843. See detailed Rules under "*Allowances.*"

Sub-Assist. Surgeon can have leave of absence under the rules of Jany. 29, '33, for uncovenanted officers. He should apply through Surgeon; and where there is no Surgeon, through M.

G. O. Sept. 11, '44.

Application for leave of absence of IX. '33, Deputy Collector to state whether 12 months have elapsed since the expiry of the last leave.

S. B. Jany. 5, '44.

ABSENCE.—ABUSE.—ABWAB.—ACCESSARY.

ABSENCE.

Rules for Leave of Absence of Uncovenanted Officers of 100 *Rs. a month, and upwards :—*

1. Heads of offices may grant leave during the authorized holydays, without deduction from salary (to officers not being Moonsiffs and Deputy Coll. G. O. Oct. 16, '46.)
2. Special leave on private affairs for 6 months, on half pay, can be given by Govt.
3. Sick leave for one year on half-pay.
4. In cases of extreme urgency, Heads of office can give sick leave for a month on half-pay, reporting for sanction of Govt.
5. After one year's sick leave, no leave will be granted until after the lapse of three years.
6. Absence without leave to forfeit appointment.
7. Salary of appointment not to be drawn for any period prior to date of joining.
8. Officer appointed to higher appointment, will draw his former pay till he joins.
9. 15 miles a-day, and a week for preparation, allowed for joining.
10. Officer acting, without a substantive appointment, will draw half the salary of the office he officiates in. If he holds an appointment, he will draw half the salary of both offices. Govt. will incur no expense by absence of any officer on leave.
11. The spirit of these rules applicable to lower grades of officers.
12. No leave on private affairs is a matter of right, but contingent on the pleasure of Govt. when not interfering with the interests of the public service.

G. O. July 24, '46.

Under Rule 1.—**P. S. A.** and **S. A.** will obtain leave from **S. D. A.**; and under the other rules from Govt.

Deputy Collectors will similarly obtain leave under Rule 1. from **S. B.**; and from Govt. under the remaining rules.

Moonsiffs will obtain leave under all the rules from **S. D. A.**

Further detailed rules.

G. O. Oct. 16, '46.

Moonsiffs not to be asking for leave of absence on private affairs, except during the holydays, unless in cases of indispensable necessity.

C. Feby. 19, '47.

ABUSE.

ABUSE, see "Charge."

ABWAB.

ABWAB, see "Landholder, No. 2. Rights."

ACCESSARY and ACCOMPLICE.

ACCESSARY may be found guilty, on the fact of the crime being proved, though the principal is unknown, or acquitted.

N. A. R. 3. 97.

Practice of punishment in such cases. Beaufort. Page 38.

ACCESSARY and ACCOMPLICE.

C. 848 of 21st Augt. 1846, rescinded.—Privity is the concealment, procuring the concealment of a felony, which a man knows, but never assented to; or the observing silently the commission of a felony, without using any endeavour to apprehend the offender; it is therefore strictly an offence of a negative kind, consisting in the concealment of something that ought to be revealed.

Accessaryship, on the other hand, is an offence of a positive kind, and of a higher degree of criminality, implying an active participation, either by procuring, counselling, commanding, or abetting another to commit a felony; or, with a knowledge that a felony has been committed by another, by receiving, relieving, comforting, or assisting the felon. Privity is only a misdemeanour; Accessaryship a felony.

As either the actual or constructive *presence* of the accused at the time when the crime is committed is necessary to constitute *complicity* on his part, so his *absence* is essential to the charge of being an "accessary;" in other words, he who is present aiding and abetting in the commission of a felony, may be an accomplice or a principal, but he cannot be either accessary or privy to it. The following terms are therefore to be used:—

"Accomplice,"—*shureek ba wukt joorm.*

"Accessary" before or after the fact—*shureek má kubl*, or *má bád joorm.*

"Privity,"—*razdarree.* Accessaries before and after the fact being felons in consideration of law, the privilege of commuting labour to a fine should not be extended to them, as to those who may be convicted of "privity," which is a misdemeanour only.

"Aiding and Abetting,"—*Jyanut.*

C. 8. June 7, '47.

ACCOUNTS.

ACCOUNTS.—New official year from 1st May, instituted.

S. B. April 30, '41. *Manual.* 4.

It is most inconvenient in an agricultural point of view.

Every Bill for Contingent, or Miscellaneous charges, with the exception of fixed monthly abstracts, to be transmitted to C. A. in duplicate, at the same time confining the number of bills to one only for each month, as far as it may be practicable.

C. A. July 16, '46.

Memo. of Dates for despatch of Collector's Monthly, Quarterly, and Annual accounts, enjoining the strictest attention to their punctual despatch. See "Treasury, No. 9 Forms."

Acct. March 1, '45.

New form of annual comparative statement of Jummah, with orders to draw it out on foolscap, and send it by 1st June of each year. See Jummah.

Acct. May 13, '41. *Manual.* 15.

Annual Pergunnahwar Kistbundee account to be written on foolscap, and sent on the 15th May of each official year. The Kists to agree with those of the monthly Toujees. See "Kistbundee."

Acct. May 15, '41. *Manual.* 13, 14.

ACCOUNTS.

Monthly Hall Toujee of Demands, Collections, and Balances, on foolscap, the 10th of every month. See "Jummah," "Remissions," "Balances."

Acct. May 17, '41. *Manual.* 10, 11.

Annual Jummah Wasil Bakee of Land Revenue, to be furnished by 30th May of each official year. See "Jummah."

Acct. May 19, '41. *Manual.* 14.

Bukya Toujee of Demands, Collections, and Nett Balances, on account of arrears of revenue for past years, on 15th June, annually, on Foolscap. See "Balances."

Acct. May 21, '41. *Manual.* 15.

No item of charge to be entered in Treasury Account without complete and sufficient vouchers, but be kept in I. B.

Acct. May 30, '43.

Native officer of M. not furnishing accounts when required, to be fined.

C. 4. S. 7. XVIII. 17.

Mahajun refusing to produce his accounts, to be committed to custody; and on continued refusal, fine of 500 Rs. and imprisonment in Civil Jail until he produces them.

C. 2. S. 95. VIII. 03. Con. 270. March 26, '17.

Account Books are admissible as evidence in all Courts, although not on stamped paper.

Con. 592. May 6, '31. Con. 759. Feby. 8, '33.

The English Accounts and Returns, in many cases framed from distinct records, although, if both are correct, they and the vernacular statements will necessarily entirely correspond, must, as far as practicable, *be prepared perfectly independently*, since otherwise they are valueless as checks on each other. If thus formed, and subsequently prepared carefully, the chance of any error passing undetected is very small.

All accounts must be kept in Company's rupees, annas, and pie; no fractional parts of a pie should be admitted; the fraction should in all transactions be relinquished if less than half a pie; and the demand of half a pie, or more, should be adjusted by entering it in the accounts as one pie.

Manual. 3.

Specific dates are fixed for the despatch of every return, and, as ample time has been allowed, there can very rarely be good cause for failing to transmit them on, *at latest*, the day fixed. Generally they ought to be sent sooner. Should any extraordinary circumstances prevent the due transmission of any return, a letter should invariably be sent to state the fact and explain the cause, specifying for how many days the return will probably be delayed.

Whenever there is nothing to report, still a blank return should be regularly forwarded at the date fixed.

ACCOUNTS.

ACCOUNTS. No letters need be sent with the periodical returns.

A particular size of paper has been prescribed for most returns, and this must on no account be deviated from, as the papers are bound up together in Accountant's office. Where no particular size of paper has been indicated, the smallest suitable should be used. Serampore, or good country paper should be used for estimates, and generally for all purposes where the durability of the record is unimportant.

Manual. 4.

For Forms of weekly, monthly, quarterly and annual returns, see "Treasury 9 Forms."

Weekly list of Supply Bills. In the Column "Amount received into Treasury," the precise sum received for the bill must be entered; that is, the discount returned should be deducted from, or premium received be added to, the amount of the bill, as the case may be.

Memo. of market rates of exchange with a few principal places, or those with which exchange operations are carried on extensively, should be given on the back.

Manual. 6.

Register of subscriptions to Govt. Loans. A new Register should be commenced with a new loan only (a single series of numbers being prescribed), and all fresh subscriptions should be added to the amount previously subscribed to the particular loan, so that the total shown at the end of every week should be the entire amount subscribed to the loan at that place; the date of subscription should be the same as the date of acknowledgment. The previous total should always be brought forward, and the week's subscriptions added to it.

Manual. 6.

Cash Balance Report. The Collector is *expected to ascertain by personal inspection at the close of every month,* that the amount reported as in the Sudder Treasury, is really in his custody.

The Memos. 1 to 4, are invariably to be given in full, or a remark "Nil" recorded.

Other Memos. as to portions of remittances remaining to be counted, Govt. Promissory Notes, Treasure belonging to parties held in deposit under special circumstances, &c. &c. should be added for information of Accountant.

Manual. 7.

Estimate. The prospective increase, or diminution of Military, and every circumstance which may influence the receipt, or expenditure, should be duly reflected on, and allowed for. All disbursements from inefficient balance should be included. If a deficiency of funds is expected, this should be clearly shown.

Manual. 7, 8.

Treasury Account. This must present all the facts of receipts and disbursements. No sum should ever be subtracted from another in order to give the net proceeds. All the facts must be recorded. For instance, if discount be allowed on a supply bill, the full amount for which the bill is drawn must be credited in the accounts, (although the person receiving the bill need only pay into the Treasury the net amount) and the discount must be charged per contra.

ACCOUNTS.

No officer should make any disbursement without a specific order from competent authority. If deviation from this rule is unavoidable, the authority should quickly be obtained.

No new head can be opened in the account, without special sanction of Accountant.

Orders are not sufficient vouchers. Transcripts of the orders must be forwarded to Civil Auditor with contingent bills, or abstracts, according as the charges may be either of a fluctuating or fixed nature, and the amount of authorized disbursements charged therein for Audit.

Pending Audit, items should be held in Inefficient Balance.

The only exceptions to this rule are charges for Remittances to the Presidency on account of Military and Medical Funds. The vouchers for these, however, must be supplied as soon after the account is rendered as possible, and should there be delay, the Secretaries should be flapped.

This account can be almost entirely prepared from the English Records; and only when none such exist, should the Jummah khurch nuvees be referred to for details. The various disbursements should be distinctly classified, and the vouchers made up into distinct bundles for each head of account.

The account thus independently made out, must be verified by collation with the Jummah khurch. If this system be strictly practised, error is most unlikely.

Manual. 9, 10.

Hâl Touzeeh. See "Touzeeh."

See also "Tulubana," "Fines," "Treasury Deposits," "Govt. Paper," "Kistbundee," "Jummah," "Remissions," "Balances," "Suits of Govt.," "Pensions."

The SIAHA is a detailed account in the vernacular, of the daily receipts and disbursements, in which *every item* is to be entered under its proper head. *Nothing is to be omitted.* The Siaha Nuvees is to be held responsible in case of any omission.

The Siaha Nuvees should sit in the Treasury so as to be able to take down every sum as it is received or disbursed. He may first enter them on slips of paper, which may be sent for comparison to the Jummah khurch Nuvees; but, before the close of each day, they must be entered in the Siaha book, *which must be balanced and compared* with the Treasurer's book, and the abstract of the daily receipts and disbursements in English. After comparison, the Clerk in charge of the abstract should enter in English on the Siaha book the aggregate of the receipts and disbursements, and the remaining cash balance.

The first official act every morning of the Officer in charge of the Treasury, should be to call for the Siaha book balanced for the preceding day; compare the total therein shown with the cash balance reported by the Treasurer, and then, if the accounts agree, affix his signature to the balance shown in the Siaha.

The Siaha should detail in the vernacular the different currencies of which the cash balance is composed.

Manual. 18.

The AWARIJA is a Khuteonee, or Abstract of the Siaha; the total receipts and disbursements under each head of account are brought forward day by day, so that the Awarija shows the aggregate receipts and disbursements under every head up to the day, from the commencement of the year. Every item of the Siaha is posted in this

ACCOUNTS. book, and adds to the aggregate brought forward from the preceding day's Awarija. Items held however in I. B. are not posted in the Awarija, till they can be charged to the proper head of account.

Manual. 18.

The JUMMAH KHURCH is the monthly Treasury Account in the vernacular, and is prepared from the daily cash account, or Waz Kham, kept by the Jummah Khurch nuvees. He is responsible that no item of disbursement appears therein which does not tally with the amount ordered to be paid away. He should verify the sums charged by comparison with the original orders, and with the Siaha.

Manual. 18.

Abstract of daily Receipts and Disbursements, see "Treasury No. 13, Officer in Charge."

Check Register of Bills Payable, is instituted to prevent the payment of forged Bills, fraudulent Drafts, and to facilitate the examination and identification of Bills.

The Register should at the commencement of every official year be opened in English, the same being paged, each page being attested with the signature of a Covenanted Officer, and in it sufficient number of pages should be appropriated to every Treasury (or Public Officer) from which bills are ordinarily drawn, or assignments of usual occurrence.

As soon as the Advice of a Bill has been received, the amount, name of Payee, and date of Bill, should be entered opposite its appropriate number (the numbers having been previously entered in a regular series,) and whenever a Bill is presented for acceptance, or payment, it should be compared with this Register, and the dates of payment and acceptance entered at the time.

This Register affords an efficient check against the payment of two bills from the same drawer, bearing the same number; and in cases in which a bill bearing an early number is succeeded by one bearing an improbably higher number, or in which any irregularity may be observable, it would indicate the necessity of making strict inquiry before payment.

In the Remarks will be entered notes of dates of requisition for letters of advice, or about irregularities, or notes of cancellation, or of issue of certificate of non-payment, or of payment of duplicate bill, &c. &c.

This Register affords the easiest reference for ascertaining whether a bill stated to be lost has been paid, or not; and it should be constantly inspected by Officer in charge, to insure its being regularly and carefully kept up.

Manual. 19, 20.

Register of Bills granted. In it should be entered all Bills drawn, with number, date, and amount; in whose favor drawn, from whom price received, and on what account. Each Treasury drawn upon should have a separate page and a separate series of numbers, commencing in May and ending with each official year. All Bills should be entered in the Register before being submitted for signature.

Manual. 20.

Register of Treasury Warrants, should be kept in English, as well as vernacular, and every warrant should be numbered and entered in both registers before it is signed.

ACCOUNTS.

The Treasurer should be made responsible that he pays no warrant which does not bear on the face of it an attestation of Registry by the signature of the Record Keeper, or other Officer to whom may be entrusted the duty of registering Warrants.

See S. 12. XXV. 03. *Manual.* 20.

Receipt Book. This should contain copies of all receipts granted in English for money received either by transfer, or as remittances from other public officers. A receipt should detail the date, the name and designation of the party paying, the account for which paid, the amount, and all necessary particulars. See "Jail Account," "Post Office Accounts."

Manual. 21.

Cash Account is the name given to the principal account furnished by Officers in charge of other than Revenue Treasuries, and answers to Collr's. Treasury Account. All receipts are credited on the one hand, and all disbursements debited on the other, and the balance is divided into the Cash and Inefficient Balance; the first exhibiting the actual cash in hand, the other including all disbursements which, although actually made, are not chargeable in the body of the accounts for want of sufficient vouchers.

Profit and Loss. All charges to this head require to be audited, under sanction of Govt. Under this rule are specially included all refunded collections and abatements in the Jummah previously collected and brought to account on the Toujechs; embezzlements; loss of Treasure; double payments, &c.-&c.

Manual. 68.

ADMINISTRATORS.

ADMINISTRATORS.—Whenever a person dies leaving property, moveable or immoveable, any person claiming a right by succession thereto, or to any part of it, can apply to Judge of the district wherein the property is situated for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

S. 1. XIX. 41.

The Judge shall in the first place enquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession, or taking forcible means for seizing possession, has no lawful title, and that the applicant is really entitled, and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit.

S. 3. XIX 41.

If satisfied of the existence of such strong ground of belief, but not otherwise, the Judge shall cite the party complained of, and give notice of vacant, or disturbed possession by publication; and, after the expiry of a reasonable time, shall determine summarily the right to possession, subject to a regular suit, and shall deliver possession accordingly.

ADMINISTRATORS. He may also, if applied to for the purpose without delay, appoint an Officer to take an inventory of effects, and seal and secure them, whether the necessary enquiry for citing the party complained of be concluded or not.

S. 4. XIX. 41.

If danger is apprehended of misappropriation and waste before the summary suit can be determined, Judge can appoint a Curator until the determination of the suit. The appointment to be duly published. In the case of Land, the Collector may be Curator.

S. 5. XIX. 41.

Judge can either leave the party in possession on giving security, or make over the property to a Curator.

S. 6. XIX. 41.

Curator to give security.

S. 7. XIX. 41.

Application under this Act must be made within 6 months of the decease of the proprietor.

S. 14. XIX. 41.

The Act shall not be put in force to dispossess the Court of Wards.

S. 16. XIX. 41.

Letters of Administration to representatives of deceased Natives. The applicant in his petition shall set forth his title. The Judge shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and, upon the appointed day, or as soon after as may be convenient, shall determine the right to the Certificate, and grant it accordingly.

S. 2. XX. 41.

No debt recoverable from debtor of deceased, without such certificate, unless the payment be withheld from fraudulent and vexatious motives, and not from reasonable doubt as to the party entitled.

S. 1. XX. 41.

Security may be taken from party to whom certificate is granted.

S. 4. XX. 41.

ADULTERY. ADULTERY—person committing, to be committed to Sessions Court.—Married women must be prosecuted by their husbands, no other person being competent to prosecute.

C 4. S. 6. XVII. 17.

Punishment 7 years, and 2 years in lieu of stripes.

C. 2. S. 6.

If crime amounts to rape, to be Referred to N. A. **ADULTERY.**

C. 3. S. 6.

Either the husband, or the wife, must complain; and M. cannot direct a public prosecution even against the adulterer, when the husband of the adulteress does not come forward to prosecute. M. may, however, take cognizance of cases of Rape in which no complaint is preferred, but should exercise this power with the utmost discretion, and regard to the feelings of the injured party and her family.
Con. 670. Jany. 13, '32. Con. 1199. Jany. 18, '39. N. A. R. V. 2. 421. V. 3. 298.

Charges of Adultery, Fornication, and Rape, not to be received by Police.

C. 2. S. 2. VII. 11.

All such prosecutions must be preferred in the first instance at the Cutchery of M.

S. 3. VII. 11.

The illegitimate child of a British father and Native mother, is amenable to the local Courts for Adultery; but the legitimate child of a British father is not.

Con. 978. Sept. 11, '35.

M. is prohibited from issuing process on such charges, without previously examining the prosecutor as to the specific facts of the case, and satisfying himself that adequate grounds exist for proceeding against the accused party. Where he distrusts the truth of the charge, he shall, previously to issuing process against the accused, summon the witnesses named by prosecutor. Inquiries of this nature not to be committed to Police Darogahs.

C. 6. S. 2. III. 12.

By Mahomedan Law, persons habouring adulterers liable to discretionary punishment.

N. A. R. V. 2. 42.

Party charged with Rape cannot be convicted of Adultery.

N. A. R. V. 5. 140.

ADVANCES for Lawsuits and Dieting of Defaulters, may be charged to their proper heads under sanction of Commissioners. (Ditto tuccavee under sanction of Commr. and S. B.) and the disbursing officer relieved from responsibility. In pensions, and advances to Commissioners' contingent charges, the disbursing officer may be relieved from responsibility on producing a certificate from his successor, that he has the receipts, and is satisfied as to the regularity of the payment. **ADVANCES.**

A. R. D. 492. March 13, '35.

Advances to Commanding and Medical Officers of a detachment to be made only on their declaration that they are absolutely necessary, and on triplicate receipts. The receipt to be forwarded by the day's dâk to the A. M. D. for immediate adjustment. Any officer delaying to forward the receipt, personally responsible. No. 284, March

ADVANCES.

ADVANCES. 4, '24. This advance to be retained in I. B. till the receipt of a draft from Paymaster. If such draft be not forwarded in 2 months, Collr. to charge the amount, reporting the same to A. M. D. The name, rank and corps of the Officers to whom the advance was made should be specified.

297. Dec. 9, '24. Acct. Sept. 26, '44. *Manual.* 27.

Commissariat advances not to be made without a draft from the Commissary Genl. or, in urgent cases, authority from a commissioned officer of the Depart.; or, in still more urgent cases, specification of the individual officer in the Department, who will immediately substitute his receipt for that on which the money had been advanced.

No. 301. Jany. 15, '25. *Manual.* 26.

Should a demand be sent to a wrong Paymaster, he should forward it to the Paymaster in whose circle the Officer may be then stationed, informing the party demanding of the transfer.

A. M. D. Jany. 24, '49.

Advances for suits on part of Govt. Form. 358. Feby. 29, '28. Such advances to be retained in I. B. till the suit is *finally* decided for, or against Govt., when, in the one case, they will be removed by recoveries made from the parties opposed to Govt. against whom decrees may have been given: or, in the second case, by being charged to P. and L. in the body of the Treasury account, after being submitted for sanction of Commr. and passed by C. A. in Collector's contingent bill. Such advances are not to be entered in the contingent bills, till a *final* award has been given; or Govt. have expressed the determination not to appeal.

396. April 30, '30.

If it be necessary for an officer to draw the whole of an Assignment at once, he must state this in writing, the document to be tacked to the Assignment.

362. July 18, '28.

When part payment of an Assignment is demanded, two receipts separate, and one upon the assignment, to be taken; the item being debited to the proper Department. On full payment, one separate receipt, besides that on the assignment, to be taken; and the assignment surrendered for transmission.

Manual. 29.

All applications from Comdg. Officers of Detachments, for Boats, Hackeries, &c. &c. are to be made out in writing, with a certificate also, specifying the number of boats employed, the period the peons or other persons required to proceed with the detachment were in attendance, &c. &c.; and the charges should be certified to be in conformity to the usual rates of labour and hire in the district. On receiving this certificate, the Collr. will pay the amount due to the people employed, and transmit it, together with the Comdg. Officer's written application, to the M. A. G. for examination and audit, requesting his authority to charge the amount in the accounts. Should the Comdg. Officer at any time neglect to furnish the necessary certificates, the Collr. will prepare a bill, containing the particulars of the expense incurred, and

forward it to the **M. A. G.** for audit, previous to paying the parties the amount, informing him at the same time of the Comdg. officer having omitted to furnish him with proper certificates. **ADVANCES.**

Manual. 43.

Law charges (Stamps, Dieting, Vukeel's fees, sums decreed against Govt.) to be sent by Collr. to Commissioner for his *sanction* to including them in the contingent bills: as, by G. O. Jany. 19, '30, all disbursements debitable to P. and L. must be subjected to audit previous to being passed to account.

A. R. D. 462. 463. July 26, '33.

Advances to independent Civil Officers must be charged under separate heads, as remittances; taking receipts in duplicate from the receiving Officer. No advances should be made for the payment of Abstracts, or any charges general which are payable only upon vouchers from C. A. The advances should be only to the extent necessary for defraying the current charges.

Manual. 27.

Diet money paid to Defaulters confined in Civil Jail, is ordinarily recoverable from the parties after their liberation; but in cases in which such recovery is deemed hopeless, or impracticable under peculiar circumstances, the amount disbursed becomes of necessity a charge against the State.

In all cases of Tuccavee, Civil Suit, and Diet-money Advances, Commr. upon application from Collr. can sanction his including in contingent bills all such charges as must be borne by Govt. either as a matter of right, or of necessity, after carefully satisfying himself of the circumstances, refusing of course the admission of any charges he may deem to have been improperly incurred, or chargeable to the disbursing officer's personal responsibility, and referring all doubtful cases for the orders of superior authority. See "Suits of Govt."

Manual. 28.

AFFRAY, *not* regarding Land or its produce, 6 months and 200 Rs. or 6 months more. **AFFRAY.**

S. 19. IX. 07.

Unattended with homicide, *severe* wounding, or other aggravating circumstances, punishable by M. with imprisonment, with or without labour and irons, for 1 year, and fine of Rs. 200 commutable to one year more.

S. 3. VIII. 28.

This Regulation is applicable only to Land and its produce.

Con. 1154. June 1, '38.

In sentences within 5 years, Labour commutable to Fine.

C. 1. S. 3. II. 34.

AFFRAY.

AFFRAY. Corporal punishment cannot be given for Affray.

S. 2. XII. 25.

M. cannot give the 2 years at once, in a lump.

Con. 774. March 29, '33.

The labour of the 1st year extends to the 2nd; both being subject to commutation of S. 3. II. 34.

Con. 972. Augt. 7, '35.

From the tenor of C. 1. S. 2. IV. 25, the assembling armed men, or taking other unlawful measures, with the evident intention of committing a breach of the peace, is, on conviction, punishable by the Magistrate with fine and imprisonment under the discretionary powers vested in him by S. 19. IX. 07.

Con. 664. Dec. 23, '31.

It is *not* imperative on a M. to commit both parties in an Affray.

Con. 778. April 6, '33.

Whenever an Affray occurs, or is expected to occur, the M. should endeavour to get witnesses unconnected with either party; neither should he be satisfied with preventing the immediate mischief, but should take measures for determining the question of *possession*, and to show who were the aggressors.

Con. 1091. March 14, '39. C. 50. April 19, '09. Con. 1146. April 20, '38.

Affray to be rendered "Khana jungee;" "Hungamah" being restricted to indicate a riot, or tumultuous assembly, where one side alone is presumed to be offensive.

C. 37. Jany. 6, '40.

Punishment of Affray attended with homicide, from 5 to 7 years, with or without labour and stripes. S. 2. When S. J. thinks 5 years excessive, or 7 years inadequate, he shall issue no sentence, but refer the case to N. A. setting forth in full in his letter of reference, the grounds on which he may apply for mitigation.

S. 3. II. 23.

This minimum of 5 years, however, only applies where both parties have committed affray by *premeditation;* and is not applicable to cases arising out of sudden quarrel, or to assaults or other aggressions, in which the assailed party may not be shewn, by previous preparation or otherwise, to have been ready and intent to fight; or to cases of affray with homicide, in which persons guarding crops, &c. &c., may resist in self-defence: in all these cases, Judge to pass suitable sentence as if II. 23 had no existence.

S. 2. VI. 28.

Where he gives less than 5 years, S. J. should insert in his remarks that the affray was not premeditated on both sides.

C. 178. Oct. 4, '44.

AFFRAY.—ALIENS.—ALLOWANCES.

AFFRAY.

Zumeendar profiting by Affray, can only be punished when proved guilty of instigating, or conniving at it.

Con. 619. Jany. 21, '31.

The mere suspicion of instigation, or connivance, cannot warrant punishment.

C. 63. Dec. 3, '30.

The evidence of persons supposed to have been concerned in an Affray attended with homicide and severe wounding cannot be taken on oath against other individuals implicated in the same offence; as affray is not one of the offences in which M. can, under C. 1. S. 3. X. 24, tender pardon to accomplices.

Con. 535. Jany. 1, '30.

In supercession of Cons. 623 and 628, by which cases of Affray with bone fracture and *sword* wounds were beyond the competence of M.;—the M. is empowered, in such cases, to commit, or punish, as he may judge most expedient, without regard to the instrument of offence, and with reference solely to the nature and extent of the injuries inflicted.

C. 53. June 12, '40.

This rule extended to *Assaults*.

C. 102. Jany. 25, '42.

Landholders living within a short distance of village where affray occurred, not to be required to give certificates that absconded offenders in the affray are not within their estates.

Con. 1352. Augt. 19, '42.

M. can try a prisoner himself under VIII. 28, although others in the same case had formerly gone to Sessions previous to the passing of that law.

Con. 594. May 20, '31.

Whenever M. apprehends a breach of the peace on account of Land, Water, &c. &c., he shall state so, and call on parties to produce proof of possession, and shall maintain the party in possession.

If possession not clear, the subject of dispute to be attached.

Secs. 2, 3. IV. 40. (See "Possession.")

Assistant should report to M. before summoning in affray.

C. 63. Dec. 3, '30.

ALIENS.

ALIENS—see "British Subjects," "Demand for surrender of Refugees," "Emigrants."

ALLOWANCES.

ALLOWANCES.—Civil Servants previously not holding any permanent situation, are entitled, under Rule 14, to the allowances of their new office from the date of appointment, provided they join their station in time.

G. O. July 15, '41.

ALLOWANCES.

ALLOWANCES. Travelling Allowance at the rate of 8 annas a mile, allowed to Civilians and Military Officers in Civil employ, on joining *first* appointments, and when deputed to act at a distance from their own stations.

Manual. 81.

Questions connected with Allowances to be submitted to Govt. through the Civil Auditor.

G. O. July 22, '41. July 17, '44.

No Officer holding a Civil employment, entitled to draw the salary of two offices at the same time.

G. O. Sept. 29, '41.

Five Years' absence involves forfeiture of the service.

G. O. Feby. 2, '41.

Resignation of Civil Service for the purpose of accepting annuity, to be addressed to Govt. of India in the General Depart.; and any provisional nomination to Council, &c. &c., to be resigned at the same time.

G. O. April 1, '42.

The officer officiating for another under rules of Jany. 29, '40, shall not be entitled to any higher allowances, even should the latter proceed to Europe, or otherwise vacate the appointment. If Acting Officer be appointed permanently, he will receive full salary only from date of permanent appointment.

See "Pay," "Absence," "Audit." G. O. Augt. 17, '42.

Travelling allowance of Omlah fixed at 3-10th of salary; and 4 annas a mile when ordered to proceed dâk.

G. O. Sept. 19, '43, and July 11, '46.

Bills for Tentage allowance to be attested as follows:—"Certified Mr. —— was employed on the public service in the interior under canvas, during the period specified in this bill."

C. A. Feby. 18, '41.

Medical Officer absent on private affairs, or on Medical certificate, to forfeit the whole of his Civil salary, which will be drawn by the party officiating, unless he be already in charge of troops, when he will receive Rs. 100 for Civil duty.

Medical officer absent 6 months, to lose his appointment.

G. O. Nov. 22, '43.

Rules for Leave of Absence and Deputation Allowance. (*See also "Deputation."*)

G. O. Jany. 29, '40, amended by G. O. May 17, '43.

Sec. 1. Leave of absence to be granted by Govt. on public application.

2. Allowances of Civil Officer quitting his station without leave, will cease until his

return; or, in the event of his subsequently obtaining leave, to the date of such leave being granted to him. ALLOWANCES.

3. No leave to have retrospective effect, except in cases of severe illness under medical certificate, according to Section 5.

4. Leave can be granted to territories of Company, or Cape, St. Helena, and places between Lat. 36° N. and 50° S., and between 30° and 180° East. A servant passing the limits will forfeit office, and all pay from date of leaving India.

5. Application for leave on the ground of sickness, must be accompanied by detailed certificate of Medical Officer, countersigned by member of the Medical Board.

Application for extension of leave in India, must be accompanied by similar certificate countersigned.

If applicant have proceeded beyond the Company's territory, his application must be accompanied by certificate of attending Physician, or Surgeon, countersigned by principal Medical authority of the place.

When any of the required particulars are neglected, leave will be refused.

6. (Amended.) Civilians absent on Medical Certificate within their Presidencies, to receive 2-3ds salary for 2 years. If salary be not more than 500 Rs. no deduction to be made the first year; and if it be only so much more than 500 Rs. that the deduction of 1-3d would reduce it below 500, only the excess beyond 500 Rs. to be deducted the first year, but the full deduction to be in force the second year.

After 2 years, Civilian of less than 12 years' actual residence, to draw the second rate of subsistence allowance; one above 12 years' residence, the highest rate.

Period of absence computed from date of quitting station, to date of return thereto.

7. Civilians absent on sick leave, proceeding on to England, may apply to Court of Directors to be admitted to Furlough from date of leaving Presidency, the surplus of allowances they, or their agents, may have received, being refunded.

8. No second leave to be granted for 3 years. But if the whole leave of 2 years had not been taken, the deficiency may be taken within the following 3 years, in the same manner as if the leave had been continuous.

NOTE.—This rule applies to all sick leave except under Sec. 12.—Thus a second leave within the Presidency, no less than a second leave to sea, will be computed as forming part of the period of two years if taken before 3 years have elapsed since return from the first leave, and the deductions will be made upon computation of the accumulated period of absence under all such leaves taken without the intervention of 3 years of consecutive service.

Sec. 9. Military Officers in Civil employ will obtain leave on the same conditions, except that in common with Officers holding Staff situations, they will draw their military pay and allowances, and half the difference between such allowances, and the Civil pay of their office.

10. Civil and Military servants must give security for the refund of any excess they may draw, in case of their proceeding on to Europe, or otherwise coming under retrenchment.

11. (A.) Leave for one month in each year can be granted after completion of 11 months from last leave, without deduction from allowances, provided no expense or inconvenience be experienced by Government.

12. (A.) Special leave on private affairs can be granted. After the first month under Sec. 11, a Civilian to draw half his pay and allowances, and a Military officer so

ALLOWANCES. much of the salary and allowances of his Civil Office as added to the Military Pay and Allowances which he may be entitled to draw, shall equal one half of his entire Civil and Military emoluments. After absence of 3 months, exclusive of period granted under Sec. 11, any office to become vacant.

13. (A.) Rescinded.

14. Civilians to join appointment not more than 300 miles off in 1 month; not more than 600 miles in 2 months; above 600 miles in 3 months, under pain of forfeiting salary for delay in excess. One month's delay in excess to vacate appointment.

Military Officers to draw salary like Staff Officers, from date of joining.

15. Young Civilian first appointed to a situation, to receive 8 annas a mile, on bill passed by C. A. after his joining. If required in advance, order of Govt. necessary.

(When an Assistant is posted under the Commissioner of a division, his travelling allowance will be passed "to the station which is ordinarily the fixed residence of the Commissioner," whether the actual journey of the Assistant fall short of, or extend beyond, the head-quarter station. These are, Delhi, Agra, Meerut, Bareilly, Allahabad, Benares, and Jubbulpore.) G. O. October 17th, 1845.

16. Salary of Office payable from date of joining; but Assistant to receive his pay from date of being reported qualified, unless forfeiting it by delay in joining his station.

17. In case of a change of office, an officer will not draw the higher salary till he joins; during the time spent in travelling according to Sec. 14, he will draw the amount of his former salary out of the pay of his new situation.

Military officers, as in Staff appointments, draw no Civil salary from the date of leaving one office to that of joining the other.

18. (A.) Salary above 52,200 to be given to officer in charge of appointment.

19. (A.) Deputation to Civilians as follows:—

Civilian not holding a substantive appointment, 25 per cent. on salary, in addition to Subsistence of his rank.

Civilian holding an office, officiating for a superior; 10 per cent. on the first 2000 Rs. and 5 per cent. on the surplus: no Deputation allowance to be less than 100 Rs.

This allowance in addition to pay of substantive appointment.

Offg. Civilian to have no Fees or Commission, which form part of the allowances of the officer relieved.

Military officer when acting for another Military officer, will draw the amount retrenched from the Absentee. When acting for a Civilian, he will draw at the rates, and under the rules, applicable to Civilians.

20. No Civilian to draw Offg. Allowances greater than the entire pay of the office in which he officiates, unless deputed to an inferior office for special reasons.

21. (A.) No subordinate acting for superior in the same office, to draw Deputation for the first month.

Civilian out of employ, or deputed from a different station, to receive Deputation from date of officiating.

22. (A.) Civilian deputed to act at a distance from the station where he is employed, or Military Officers holding Civil office who may be so deputed, or who may be ordered by Govt. on special duty, to draw travelling allowances at the rate sanctioned in the case of a first appointment.

23. Chaplains to have sick leave on same rules as Civilians; but to have no allowance after an absence of 2 years. ALLOWANCES

24. (A.) Chaplains can have leave of absence on private affairs. If exceeding leave, to be cut half their allowances for 4 months, when all pay will cease.

25. (A.) Chaplains can have leave for 1 month in each year on the principle of Sec. 11. from Bishop, or Archdeacon, who will inform Govt. for insertion in Gazette.

26. (A.) Rescinded.

27. Chaplain on first joining a Station to receive travelling allowance like a Civilian. On subsequent transfers, he will receive the same allowance if removed by order of Government and not at his own desire.

28. Assay office rules.

G. O. Jany. 29, '40, amended by G. O. May 17, '43. *Manual.* 49.

Covenanted Officers to receive 5 Rs. a day tentage, on countersignature of Commr. if salary less than 23,000 Rs. a year.

The travelling allowances of all *un*covenanted Officers, is $\frac{8}{10}$ths of salary. When the Officer may be required to proceed dâk, under special authority from Govt. he will receive at the rate of 4 annas a mile during the time employed in travelling, and on the days on which he may not so travel, he will receive at the rate of $\frac{3}{10}$ths of salary.

The Officers to whom these rules apply, are, the fixed Establishments of public covenanted Officers when moving from the Sudder Station. All Principal Sudder Ameens, Sudder Ameens, Moonsiffs, Deputy Collectors, and Deputy Magistrates, when required to travel within their districts, or during transit from one district to another, when ordered on the public service, and without a view to their promotion, or acting in a higher grade. All Nujeebs, Burcundauzes, or men of the Provincial Battalions, when ordered beyond the limits of the district, or division, within which they are ordinarily required to serve.

All travelling allowances must be charged in a contingent bill; receive the countersignature of Commr.; be audited, and then be debited to the particular Depart. to which the charge belongs, as, when belonging to several departments, in the proportions fixed for pay.

Manual. 81, 82.

Bengal Deputies deputed, to have 5 Rs. a day. When marching about their subdivisions, 3 Rs. a day. See "Deputations," "Deputy."

Supt. of Police, No 7. 1847, L. P.

ALLUVION and DILUVION.—It is always easy to ascertain from the Survey Map, how much land a village has lost or gained. ALLUVION and DILUVION.

Directions. 209.

"By law, in cases of diluvion, the zumeendar is bound to stand to his engagements till the injury to the estate is so great, that payment from the assets is impossible. On the other hand, Govt. can claim revenue from any new land which may accrue by alluvion to the estate. But by para. 167, S. B. No. II. it is ruled that whenever 1-10th of the land, or a portion of land yielding 1-10th of the rental, is cut away, the zumeendar can claim a re-settlement upon the assets; while the Govt. can only assess incre-

ALLUVION and DILUVION.

ment when it amounts in extent, or in produce, to more than 1-10th of the original estate."

"When a revision of settlement takes place under the above rules, on the zumeendar's plea of Diluvion, if the assets shall be found to be from any cause larger than, or as large as, they were computed to be at time of settlement, the proprietor will not be entitled to a reduction of revenue. If they be less, a proportionate reduction will be allowed, the jummah being calculated on the existing assets in the same manner as when the settlement was originally formed. If, on the other hand, the Govt. should claim an increase of revenue on the ground of an increment exceeding 1-10th of the original estate, it will be in the option of the proprietor either to throw open the whole estate to re-settlement, or to come under engagements for the sum which may be demandable upon the newly accrued portion alone."

Directions. 210, 211.—G. O. Augt. 27, '44.

This revised Settlement is for the remaining term of the existing lease, subject at all times to an intermediate re-adjustment of the Jummah, if the Mouzah undergoes further change whereby the loss, or gain, of land exceeds 10 per cent. of the area *last assessed.* A condition to that effect should be entered in the new lease, and reported.

S. B. Feby. 12, '41.

Reductions of Jummah from diluvion are shown in the accounts as remissions of revenue, and require to be annually written off as nominal balances by order of Govt. Increase of Jummah must be sanctioned by Govt. before it is brought on the rent roll.

Diluvion will always be reported by zumeendars; but alluvion concealed. Collr. should be careful neither carelessly to neglect, nor vexatiously to advance, such claims on the part of Government.

Directions.

Land gained by gradual recess of water, shall be considered an increment to the tenure of the person to whose land it is thus annexed, whether zumeendar, or any description of under-tenant whatever. The right of property and permanent interest in the alluvion, to be the same as that in the tenure to which it may be annexed, the zumeendar being liable to assessment of jummah under II. 19, and, if annexed to a subordinate tenure, the under-tenant, whether a Khoodkast Ryot holding a mouroosee istimraree tenure at a fixed rate per beegah; or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion; to pay any increase of rent to which he may be justly liable.

C. 1. S. 4. XI. 25.

This does not apply where a river, by a sudden change of course, may break through and intersect an estate, and so separate a piece of land without destroying its identity, and preventing its recognition. In such cases, the land remains the property of its original owner.

C. 2. S. 4. XI. 25.

Churs belong to Govt., unless the channel be fordable, when they are accessions to the tenure to which they may be most contiguous.

C. 3. S. 4. XI. 25.

ALLUVION AND DILUVION.

Under Circular 335. Dec. 28, '47, when the Jummah has been reduced by Summary Settlement on account of Diluvion to the amount of 1-10th, no further change is to take place until a further alteration equal to another 10 per cent. shall have occurred:

S. B. Jany. 18, '48.

In making out the Summary Settlement Statement for such second alteration, it is proper to give first the Area, &c. &c., according to the general Purgunna Statement; below that, the particulars of the last Summary Settlement sanctioned, quoting the date; and lastly, the present state.

Commr. 5th Division, July 25, '48.

For Alluvion and Diluvion of RENT-FREE Mouzahs, see "MAAFEE."

When a whole Mouzah is swept away by a river, it should be removed from the Rent-roll, as it can never again be restored. Any land which may be subsequently thrown up by the river will be an increment to the mouzahs on the bank, which originally were behind the destroyed mouzah, and by its destruction have been brought in contact with the river.

Directions. 206.

NEW RULES FOR INVESTIGATION OF ALLUVION AND DILUVION.

Para. 2. Every Collr. is required to draw out for each Tuhseeldarree a list of villages liable to increment, or decrement, of area by the action of a river. This list should be Mehalwar, and should shew the total, the malgoozarree, and the cultivated area, as well as the jummah at the time of settlement, and also at the last revision of assessment.

Para. 3. At the close of the rains, and when the rivers have sufficiently subsided, the whole of these Mehals must be visited by the Tuhseeldar, who will enter in the column of remarks such information regarding each Mehal as he may be able to obtain. In every case of decrement, where the zumeendars claim enquiry and reduction, he must state the grounds upon which they make the demand, the nature of the land said to be cut away, and his opinion regarding the claim, founded upon such summary enquiry as he can easily make, and his own personal knowledge of what has occurred. From this Report Collr. will be able to gather what cases are likely to require investigation, and in what no further orders are necessary.

4. On the 1st Novr., or as soon after as conveniently practicable, Collector or Deputy, in company with Tuhseeldar, should repair to the vicinity of such tracts as are reported to have suffered any change requiring investigation, and take up and decide every case that may have arisen.

5. At the close of the investigations, those cases in which such changes are ascertained to have taken place, as renders an alteration of jummah necessary, should be submitted in the following classes:—

I. Settlements in consequence of Increment.

II. Do. Decrement.

III. New Mehals formed by River.

I. Whenever the addition of cultivated, grazing, or otherwise productive land amounts to 10 per cent. more than the area cultivated of any Mehal at the time of

ALLUVION and DILUVION.

settlement, a new settlement of the freshly gained lands alone, or of the entire Mehal, at the option of the Malgoozar, must be made and reported as a Summary Settlement. On the field map of the village, or, if necessary, in a supplementary map, the additional land acquired from the river must be indicated in detail; that part of it which is cultivated, or capable of cultivation, being distinguished from the rest. A detailed statement of the area, and of its estimated value, should accompany the report, along with the original Settlement Forms II. and III.

II. In all cases where by change in the course of a river, 10 per cent. of the cultivated or otherwise productive area, or 10 per cent. of the assets calculated upon the cultivated area of the last settlement may be lost, a fresh settlement of the Mehal must be made, and the loss is to be marked with a red line in the field map, a detail being given in the report.

III. Whenever lands are thrown up which under XI. 25. do not belong to any particular Mehal, they must be erected into a new estate, and settled; and the Collr. must apply for permission to bring the new Mehal on the Rent-roll. In such cases a field map, with detail of the measurements, and estimate of the value of the lands, will accompany the report.

6. After any Summary Settlement thus effected, no further change is to be made in the Assessment until a further increment, or decrement, to the amount of 10 per cent. of the area, or assets ascertained at the last summary settlement, takes place.

7. Whenever a Mehal is utterly cut away, so that no portion of it remains as a land-mark, the Mehal is to be struck off the Rent-roll.

8. Collr. to submit a yearly report of the investigations directed in this Circular, which should reach Commr. by 1st April; and should no cases have occurred, he must certify in his report to that effect.

9. Commrs. to see that these rules are carefully acted up to, and to report yearly before the end of May the operations in the several districts under their charge.

10. When such extensive alterations have taken place in the course of a river, or the formation of alluvial deposits, as to render it expedient that a professional survey of the new outline be obtained, the local authorities should bring the circumstance to the notice of the Board.

S. B. Sept. 19, '48.

This cumbrous, unnecessary, and inquisitorial circular will, I hope, be modified. Govt. will lose much more than they will gain, exclusive of the loss of time of Tuhseeldar, Collector, and other officials.

On Diluvion of an *Arazee*, or parcel of land, in a Mouzah, there may be fair ground of claim by the parcel-holder to have the assessment revised as between him and the proprietor of the Mouzah; but it does not necessarily follow that because the parcel has been disabled, the Mouzah should be so. The same principle obtains in *Imperfect Partitions*, the owner of a disabled Puttee being able to claim either a re-distribution of the Jummah, or a partition de novo.

Commr. 5th Division, June 18, '49. Approved of by S. B. July 17, '49.

ALTERATION.

ALTERATION. See "Forgery."

AMEEN.

AMEEN. See "Partition."

AMMUNITION AND ARMS.—ANNULMENT.—APPEALS.

AMMUNITION.

AMMUNITION and ARMS, export of, forbidden without permission of Govt., with the exception of arms in the possession of individuals for private use.

S. 85. IX. 10.

Police to report parties collecting any quantity of arms, ammunition, or military stores; or building forts.

C. 1. S. 30. XX. 17.

ANNULMENT.

ANNULMENT.—See "Land Revenue No. 6. Farm to Stranger."

APPEALS.

APPEALS.—From every sentence or order in Criminal trials within the limitation of S. 8, 9. IX. 93, S. 4. XVI. 95, and S. 8, 9. VI. 03, or in Judicial proceedings other than criminal trials, passed by an Assistant, Sudder Ameen, Law officer, or by any other officer under a Magistrate empowered to try criminal cases, there is one appeal to the Magistrate, J. M., or officer exercising powers of M. within one month from date of order.

And from every sentence or order in criminal trials beyond the above limitation (Rs. 50, *or* 15 days), or in judicial proceedings other than criminal trials, passed by M., J. M, Assistant with special powers, or other officer empowered to try criminal cases, there shall be permitted within one month one appeal to S. J. And from every sentence or order passed in criminal trial by S. J. there is one appeal within 3 months to N. A.

S. 2. XXXI. 41.

If either Fine, or period of imprisonment, be beyond the limitation, the appeal lies to S. J.

Con. 1391. Nov. 22, '44.

It is at all times lawful for N. A. to call for the records of any criminal trials, and to pass upon them such orders as may seem fit.

S. 3. XXXI. 41.

For powers of N. A. to alter orders, see "Nizamut Adawlut."

It is not lawful for N. A. or for any Criminal Court in appeals, to enhance any punishment, or to punish any person acquitted.

S. 4. XXXI. 41.

S. J., Magistrate, J. M., or officer exercising powers of M. may call for and examine the records of any subordinate court, for the purpose of satisfying themselves as to the regularity of the proceedings. But no court but N. A. can alter any order except upon appeal by parties concerned.

S. 5. XXXI. 41.

S. J. can refer to N. A. any trial in which he considers the sentence he is empowered to pass, inadequate.

S. 6. XXXI. 41.

APPEALS.

APPEALS. Appeal *must* be preferred within a month; there is *no* discretion to receive them after that period.

Con. 1332. April 28, '42.

Where days, or weeks, are mentioned, the full number mentioned in the order must be allowed, exclusive of the day on which the order is passed. When a month, or year, is mentioned, it should be reckoned according to the English Calendar.

C. 158. March 1, '44.

S. J. should enter in the margin of the letter with which he transmits an appeal, the dates of sentence appealed, and of presentation of petition.

C. 172. July 19, '44.

M. to receive and forward Petitions of Appeal to S. J.

C. L. P. 137. May 19, '43.

When a Petition of Appeal may be given to an officer in temporary charge of S. J.'s office, he will send copy, with a proceeding, desiring M. to suspend execution of his order, should he deem it proper, either with or without taking security, until the appeal can be brought to a hearing before S. J.

C. 38. Jany. 28, '40.

Deputy Magistrates, and uncovenanted Judges exercising powers of M. are *not* to exercise *appellate* power; and Petitions of Appeal, whether from covenanted, or uncovenanted Subordinates, shall not be referred to them for decision.

C. 3. March 7, '49. Lower Provinces.

Decision of S. J. in appeal from M in any proceeding other than a criminal trial, is final, and not open to revision by N. A.

S. 6. XXIV. 37. S. 2. XXXI. 41.

Appeals of Police lie to Supt. of Police.

Secs. 4, 5, 6. XXIV. 37. C. 35. Novr. 22, '39. G. O. May 9, '38.

Appeal from M. or other officer empowered to try criminal cases, awarding fine for Contempt of Court, lies to S. J.

S. 1. XXX. 41.

Appeal from Orders regarding *Ferries*, lies to Supt. of Police, *not* to S. J.

C. 29. Augt. 23, '39. C. 39. Jany. 31, '40. Con. 1144. April 6, '30.

Any person, whether European British subject, or a Native, falsely and maliciously aspersing the character of M. or J. M. in petition of appeal, or other document filed in S. J.'s court, to be punished for contempt under XII. 25.

Con. 1098. July 14, '37.

It is not necessary that Appeal should be accompanied by copy of M.'s Order.

Con. 1081. March 17, '37. N. A. R. V. II. p. 222.

APPEALS.

It is discretionary to admit Appeal from person evading M.'s sentence.

Con. 941. April 3, '35.

The order of M. inflicting fine, not exceeding 200 Rs. under the express condition specified in S. 8. IX. 93. (that offender is a Zumeendar paying 10,000 Rs., or Aymadar paying 500 Rs., or Lakerajdar of land producing 1000 Rs.) is *not* appealable; but M. in his order of fine above 50 Rs. under that enactment, must set forth that the person fined is in such condition; and, in the absence of such declaration, his order fining above 50 Rs. is primâ facie appealable.

Con. 1361. Sept. 9, '42.

S. J. can order M. to suspend execution of order, and direct release of a prisoner on bail, when justice may appear to require it, whether he may, or may not, have examined the M.'s proceedings. Con. 489. Dec. 12, '28. Repeated; and J. directed not to receive petitions on plain paper, except from prisoners in criminal jail.

Con. 657. Sept. 2, '31.

Appeal of European British Subject, see "British Subject."

The Appeal of Jailor and Jail officers by S. 7. XXIV. 37. lies to S. J.

Con. 1142. March 23, '38.

Orders of M. under XXI. 41. as to Nuisances, appealable to S. J.

C. 157. Feby. 20, '44.

A litigious, vexatious, or groundless appeal, to S. J. punishable in particular cases appearing to require it. Con. 530. Nov. 27, '29. But when a case is committed by M., the prosecutor cannot be punished for groundless complaint, though he may be brought to trial with his witnesses for perjury.

Con. 528. Oct. 30, '29.

A merely litigious appeal is not punishable by M. under S. 5. VII. 11; but if a prosecutor whose case has been dismissed by a subordinate court, persist in bringing before M. a charge evidently malicious, or greatly exaggerated, M. may punish him under that law.

Con. 1208. June 21, '39.

Correspondence with Appellant by letter in criminal matters is objectionable, as he is at liberty to apply to the Court in the usual manner.

Con. 818. Augt. 23, '33.

S. J. cannot receive evidence which has not been previously heard before the lower Court, except in such cases as may have been regularly committed to him for trial at the Sessions.

In revising any case included in M.'s abstract calendar, which may appear to him not to have been sufficiently investigated, or in which further enquiry may be requisite for the ends of justice, such enquiry, according to S. 22. IX. 07. must be instituted by M. who will communicate result to S. J.

Con. 1104. Sept. 1, '37.

APPEALS.

APPEALS.

S. J. is also competent, on sufficient grounds, to order M. to replace on his file a case struck off on default.

Con. 1169. Augt. 31, '38.

When the sentence of one party in a case falls within the limitation of S. 8. 9. IX. 93, he cannot appeal, nor can S. J. interfere with the order regarding him.

Con. 1330. May 20, '42.

If one defendant appeals, the appellate Court cannot interfere with the sentence, passed on those who did not appeal, but may recommend N. A. to call for the proceedings, and revise the sentence.

Con. 1393. April 25, '45.

An appellant, convicted and sentenced by a lower Court, but admitted to bail pending appeal, absconding; his property is not liable to forfeiture under XI. 96, and S. 26. XX. 17, which are applicable only to persons *charged* with a crime but not convicted; but he must be proceeded against as an absconded convict.

Con. 1124. Dec. 29, '37.

Appeals to Commr. and S. J. ought always to be disposed of within 3 months. Explanations to be given of all appeals which may, at end of month, or year, have been pending above 3 months.

C. 209. Oct. 21, '36.

S. 2. XXXI. 41. confers upon every convicted offender the privilege of demanding a rehearing of his case. The appellate authorities enumerated in S. 2. cannot reject petitions of appeal of what kind soever presented within the prescribed time, without a revision of the proceedings; and however manifest the legality or propriety of the decision may be, they must call for and examine the proceedings.

C. 165. May 14, '44.

When Sessions and Magisterial authorities, having called for and examined proceedings, consider that from grave irregularity of procedure, undue severity of punishment, &c. &c. *alteration* is required, they should report to N. A.

Such reports to be always accompanied by record of the case, and an English letter commencing—"Under S. 5. XXXI. 41., and Circular of N. A. dated March 18, '42. I herewith transmit the record of the case noted in the margin, to be laid before N. A. with the following report." Then follows a concise account of the irregularity, or other matter, on which the interference of N. A. is sought. M. will submit such report through S. J. S. J. in referring trials under S. 6. will write, "I herewith transmit, to be laid before N. A. under S. 6. XXXI. 41," &c. &c.

C. 106. March 18, '42.

The words "sentence or order," in XXXI. 41. do not refer to interlocutory orders in cases under trial, and the Act does not preclude the interference of the higher with such intermediate orders of the lower Courts.

Con. 1322. March 18, '42. C. 226. April 7, '37.

APPEALS.

M. is the authority to determine character of offence, and the measure of punishment commensurate thereto. If he chooses to consider a case petty, and does not exceed the punishment of Rs. 50 *or* 15 days under S. 8. VI. 03. there can be no appeal to S. J. Besides, such appeal would be useless, as S. J. cannot, under S. 4. XXXI. 41. enhance punishment.

Con. 1353. July 25, '42.

Appeal not admissible unless presented by appellant in person, or by duly authorized representative.

C. 166. May 17, '44.

In supercession of Para. 1. C. 100. it is ruled,—

Every order of Assist. *not* vested with special powers, of S. A. or Law officer, passed in a criminal trial, adjudging Fine *and* Imprisonment, according to S. 20. IX. 07. and C. 3. S. 3. III. 21. which penalty exceeds the limitations of S. 8. VI. 03. is appealable to S. J.

In like manner, whenever in cases of petty theft, the extended powers conferred by the above Sections are called into exercise, the order is appealable to S. J.

C. 159. March 2, '44.

Every sentence or order of Assist. *with* special powers, within the limit of S. 2. XXXI. 41. is appealable to M., J. M., or officer exercising the powers of M.

C. 210. Sept. 12, '45.

No appeal from M. or J. M., within the limits.

C. 100. Jany. 28, '42.

All appeals from J. M. lie exclusively to S. J., thus rescinding Con. 858.

Con. 1326. Feby. 12, '42.

Appeal against attachment in one district, on requisition of M. of another, lies to S. J. of the former.

Con. 625. Feby. 25, '31.

Appeal forwarded by dâk need not be attended to, unless appellant appear in person, or by duly authorized agent.

Con. 513. July 17, '29.

Magisterial authorities to receive petitions of appeal against their own orders, for transmission to S. J, who will pass orders on such petitions, notwithstanding appellant has not appeared in person, or through Mooktar.

C. L. P. 137. May 19, '43.

S. J. in sending to N. A. petitions of appeal from his own orders, to enter in the margin of the letter, the dates of sentence and of presentation of petition.

C. L. P. 172. July 19, '44.

Appellate authorities not bound to furnish lower Courts with copy of petition of appeal.

N. A. R. V. 2. 221.

APPEALS.

APPEALS. Orders appealable, and not appealable, in the same case, to be kept distinct and separate.

C. 135. April 22, '43.

S. J may order a M. to admit a party to appear and answer by Attorney if he sees sufficient reason for so doing.

Con. 730. Nov. 2, '32.

Appellants from decisions of M. may employ whom they please to conduct their appeals. No assistance to enforce payment of remuneration to such agents, to be given.

Con. 642. June 10, '31.

S. J. can order M. to bring a case to a conclusion, but should pay attention to M.'s reasons.

S. 2. VI. 18.

S. J. ought to call for M.'s proceedings in cases where he may see reason to presume a failure of justice, without restriction to the limit of one month, which has reference only to appellants.

Con. 437. Nov. 10, '26. 986. Nov. 6, '35. N. A. R. V. 2. 221.

S. J., or Commr. should usually confine himself to calling for proceedings of a case, or for an Oordoo report, if such appear necessary; but in special cases they are fully competent to require a report in English on any particular points which may appear to call for explanation.

Con. 1071. Feby. 3, '37.

S. J. can always inspect the M.'s English correspondence.

C. 5. July 18, '28.

S. J. in forwarding explanation of M. or J. M. to state whether he considers it sufficient and satisfactory.

C. 219. Jany. 27, '37.

If M. differ from J. as to precept, from difference as to construction of Regn., he may state his opinion, and suspend execution till receipt of 2nd precept, when he *must* (Con. 437.) obey; but when certifying execution of order, he may request S. J. to transmit copies of papers to N. A., who shall do so without delay. This does not authorize M. to question the propriety of any order, but merely the construction of the Regulation.

S. 2. XXII. 03.

The above supported by Cons. 390. June 10, '25. and 479. April 18, '28.

S. J. may refuse to forward reference to N. A. if the order objected to depends upon judgment, not on construction of Regulation.

Con. 433. Oct. 23, '26.

M. should not dispose of a case which he has determined to refer to N. A., until again directed to do so by S. J. APPEALS.

Con. 1030. July 29, '36.

Such discussions are better carried on in English, and distinct from the particular judicial proceedings.

C. D. A. C. 26. April 18, '11.

In such references, copies instead of originals should be sent. C. 126. Nov. 16, '32. Also an English letter specifying briefly the contents, and the particular point on which orders are required.

C. 184. Nov. 27, '35.

If N. A. doubt, they should report to Govt. for new Regulations.

S. 4. XXII. 03.

Copy of correspondence between S. J. and M. as to state of the district, or mode of conducting business, to be sent to N. A.

C. 277. June 6, '23.

II. *Appeals of Police*, lie to Superintendent of Police. APPEALS of POLICE and from JUSTICES.

Secs. 4, 5, 6. XXIV. 37. C. 35. Nov. 22, '39. G. O. May 9, '38. N. A. July 21, '37.

Though petitioner's *right* of appeal be lost, a Commr. is competent, under his general powers, to revise M.'s order, and alter, or annul it, if illegal.

Con. 730. Nov. 2, '32.

Appeal from Supt. of Police of G. G.'s Camp, lies to S. J. of the zillah in which Camp is.

Con. 1370. March 31, '43.

Orders of M. regarding Police officers not to be interfered in by S. J., the revision resting with Superintendent of Police.

C. 35. Nov. 22, '39.

M to forward appeals of Police by dâk to Superintendent of Police, if asked.

G. G. C. May 9, '38.

With exception of Police officers, and Ferries, all judicial orders of M. appealable to S. J.

Con. 1144. April 6, '38. Beaufort, 233.

APPEALS JUSTICES OF THE PEACE.

III. *Appeals from Justices of the Peace* to be to the same authority, and subject to the same rules, as those of M. Cases so appealed shall not be afterwards liable to revision by a Writ of Certiorari.

S. 1. IV. 43.

This does not take away the power of quashing any conviction by a Writ of Certiorari, in any other case than where there has been such Appeal.

S. 2. IV. 43.

COLLECTORY.

IV. In *Summary Suits* decided by Depty. Collrs. and Assistants especially empowered, the Appeal lies to the Commr. not to the Collr., who can take no further cognizance of a case, beyond the general revision and control adverted to in S. 21. VIII. 31.

S. B. II. 28.

When cases are made over to Tuhseeldar for report, he should draw up *a regular proceeding*, which the Collr. will confirm, modify, or reverse, in the briefest form.

S. B. March 27, '35. II. 29, 30.

The sole ground of Appeal against a Summary Decision is that of *irrelevancy* of Regulation to the case appealed.

S. B. II. 28.

These Rules have been modified by the Board of Revenue, who declare,

1st. No party can claim of right to be heard in appeal in the Revenue Department from the decision of Collr., Depty. Collr. or Assistant Collr. in the Summary Suit Court, except by the Commr. and then only on the ground of irrelevancy of Regulation to the case appealed.

2nd. Nevertheless, if a Collector think that injustice has been done by the decision in the Summary Suit of any Deputy, or Assistant Collector subordinate to him, he may within one month annul, or amend the decision.

3rd. After the lapse of one month from the date of decision in a Summary Suit by a Deputy, or Assistant, the Collector loses all power of interference, and the decision stands subject to the same conditions as a decision passed by the Collector himself.

S. B. May 30, '48. *Directions*. 280.

For Appeals and Revision of Orders in SETTLEMENT Cases, see "Collector's Miscellaneous Rules."

A Court of Appeal can only take notice of a cause as it stands upon the record, and evidence cannot be introduced in an after stage, which ought to have been regularly brought forward while the cause was before the primary tribunal.

S. B. IV. 166. *Directions*, Appendix 14.

The Sudder Board are ready to receive petitions sent by dâk, on 2 Rs. stamps, and accompanied by attested copy of the order appealed against.

S. B. Augt. 11, '48.

ARREARS.—See "Distraint," "Summary Suits," "Ejectment," "Kham," "Farm," "Land Revenue," "Abkarree." ARREARS.

ARREST.—Any party on bail, in attendance on a criminal Court, is not liable to arrest under civil process whilst in actual attendance, or coming and going. ARREST.

Con. 885. March 22, '34.

Ditto party defending suit before Collector.

Con. 893. Augt. 1, '34.

Ditto party, or witness before Settlement Officer under C. 1. S. 23. VII. 22.

Con. 1089. April 28, '37.

Every case of Burglary and Theft to be reported by landholders and Police to M., who will determine whether it is necessary to investigate the charge under S. 2. II. 32; being guided by extenuating circumstances, such as the youth of the offender, his being prompted by extreme distress, his being of good family, or being connected with prosecutor.

S. 7. XII. 18. Con. 318. July 7, '20.

In case of Burglary and Theft, unattended with personal violence, Police not to make local enquiry or search, for stolen property, without petition on plain paper from person injured; or unless they receive order from M.

C. 2. S. 2. II. 32.

Dwelling houses not to be forcibly entered for process of arrest, except in cases of urgent necessity; nor shall zunanahs be entered, except upon credible information that offenders are there concealed; when the women shall be previously allowed to withdraw.

C. 5. 6. S. 25. XX. 17.

On forcible rescue from arrest of Civil Court, M. not to search house, or apprehend and send party to Civil Court; which should preceed under S. 25. IV. 93.

Con. 765. April 12, '33.

Civil Court is not competent to require from M. delivery on civil process taken out against him whilst yet in confinement, of a prisoner after the expiry of his imprisonment in criminal jail.

Con. 1276. April 24, '40.

No process of arrest, except in heinous offences, to be issued at the instance of an individual, unless the charge be deposed to on oath, either by complainant, or by some credible person on his behalf. This not to restrict M. from issuing a process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension a sufficient cause may appear, upon the report of a Police Officer, or other credible information.

S. 4. IX. 07.

ARREST. In cases of Murder, Dacoity, Maiming, Wounding, Arson, Forgery, Affray, or any crime involving a dangerous breach of the peace, or any similar offence requiring the immediate apprehension of offender, Darogah shall, after charge on solemn declaration, apprehend and send him to M. within 48 hours.

C. 1. S. 25. XX. 17.

Persons found in the act of committing a breach of the peace, or on hue and cry, or with stolen goods in their possession, may be apprehended by Police without written charge, or warrant; but the offenders, with report of the case, to be sent at once to M.

C. 4. S. 25. XX. 17.

ARSON. ARSON.—To be committed to Sessions Judge, and punishable with 7 years' labor in irons, and 39 stripes.

S. 2. LIII. 03.

Para. 2. The wilfully and maliciously setting fire to any village, town, house, or other building, constitutes the crime of Arson, which is punishable only by the S. J., and this definition includes the burning of a boat laden with men, or merchandise, of a tent, or of other place used for the time being as a dwelling.

3. Acts of incendiarism other than the above, do not fall within the definition of arson, and the criminality of such acts will vary very much according to the presumed motive of the Incendiary, the effect of his act either actual, or probable, and, generally, the circumstances which distinguish it; but there is nothing in the Regn. which precludes M. from disposing finally of such case, provided he considers the punishment which he is competent to award under S. 19. IX. 07. adequate to the offence proved. M. will act in future on this view of the law, (after acting on a totally different view for 45 years;) bearing in mind that if by any act of incendiarism not coming within the above definition of arson, lives should be endangered, or valuable property destroyed, or if the act be accompanied by other aggravation, he is at liberty to exercise his discretion in committing to S. J. In such cases, however, M. is required to state specifically, in the Calendar or the Roobkarree of Commitment, his reasons for committing in preference to passing sentence himself; and any commitment of this kind, for which such special reason may not be assigned, will be liable to cancelment.

4. Those cases in which the sentence sanctioned by C. 7. S. 2. LIII.·03. may be considered insufficient, will be referred by S J. for final orders of N. A. under S. 6. XXXI 41.

N. A. June 5, '48.

Police officers not to make inquiries into cases of accidental fires, unless charges of wilful arson are made.

C. 85. July 15, '31.

A man may not set fire to his own house, even after warning his neighbours.

N. A. R. V. 3. 231.

ASSAULT.

ASSAULT, petty Abuse, Adultery, and Abortion, not to be interfered with by Police. S. 22. XXII. 16, and C. 1. S. 12. XX. 17, the charges to be made to M. under S. 3. VII. 11. Punishment 15 days, and 50 Rs. or 15 days more. Zumeendar paying more than 10,000 Rs., Aymadar 500, and Lakherajdar 1000 Rs. liable to fine of 200 Rs. or 15 days.

Aggravated cases of Assault punishable by M. and S. J. under general regulations.
LIII. 03. IX. 07.

The mere circumstance of a bone fracture not to take an assault out of M.'s cognizance, it being left to him to determine whether to try himself, or commit; S. J. is not competent to quash a commitment made on this discretionary power. C. 53. June 12, '40. The principle of Para. 4. C. 53. as to wounds inflicted by sword in affray, to apply equally to Assaults, it being left to the discretion of M. to commit or punish.
C. 102. Jany. 25, '42.

Ruled by N. A. that cutting off the nose with a razor can be punished by M
Letter to S. J. of Goruckpoor, May 1, '47.

ASSEMBLY.

ASSEMBLY.—See "Budmash," "Affray."
C. 2. 3. S. 7. III. 21.

ASSIGNMENTS.

ASSIGNMENTS.—See "Advances."

ASSISTANT, POWERS.

ASSISTANT *to Magistrate*, has, in cases of *Theft*, power of imprisonment for 1 month. S. 20. IX. 07.; and 1 month more in exchange for bents. S. 2. II. 34.; being a total of 2 months in *felonies*.

In *assaults*, abuse, &c. he can sentence to 15 days imprisonment, with a fine of 50 Rs. commutable to 15 days more. S. 20. IX. 07.; being a total of 1 month in *misdemeanours*.

He cannot, however, lump the punishments together. He cannot give the month in "exchange for bents" until he has already given the month authorized for the offence; (C. 2. S. 2. II. 34,) and in the same way, he cannot omit the fine, and sentence at once to the full period of imprisonment authorized in lieu of fine.
Con. 774. March 29, '33.

Assistant with special powers can give 6 months; and in Thefts, 1 month more in exchange for bents, total 7 months in *felonies*.

In misdemeanours he can fine 200 Rs., commutable to further imprisonment of 6 months, being a total of 12 months.
C. 3. S. 2. III. 21.

If he thinks prisoner deserving of a higher degree of punishment, he should return the case to M. for final orders, with his own opinion.
Con. 191. Jany. 18, '15. C. 162. Feby. 20, '35.

ASSISTANT.

ASSISTANT, POWERS.

M. *may* devolve upon his Assistant power to do acts which he does not possess under IX. 07., namely, to decide finally in cases of a heinous nature, provided his opinion be in favor of the prisoner; but in cases referred to him only for report, Assistant has no power to release prisoners.

Con. 612. Nov. 25, '31.

Assistant to M. on changing district, to be sworn in as a matter of course. Con. 850. Dec. 20, '33. *Form of Oath.* "I., A. B., Assistant to M. of the zillah of———, solemnly swear, that I will, to be best of my ability, assist the said M. in preserving the peace of the zillah over which his authority extends; that I will act with impartiality and integrity, and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, emolument, or reward whatsoever, in the execution of any matter relating to the duties of my office, except such as the orders of the G. G. in C. do, or may, expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities and judgment, conformable to the Regulations that have been, or may be passed, by the G. G. in C.; So help me God."

S. 17. XII. 03.

"I———, Assistant to the Collr. of———, do promise and swear that I will to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of Revenue, reposed in and committed to me by the United Company of Merchants of England trading to the East Indies, and that I will not demand, take, or accept, directly or indirectly, by myself or by any other person, for my use, or on my behalf, of or from any Rajah, Zumeendar, Talookdar, Poligar, Farmer, Renter, or Ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing by way of gift, present, or otherwise, over and above, or besides and except, the actual tribute, rent, or tax, authorized to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay, all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person, or persons, in trust for, or employed by me as an officer of the Revenue of the said Company, unto the said United Company.

So help me God.

(Signed) ————,

Assistant Collector.

Made and subscribed in Court by the said———, this — day of——, in the year of our Lord——, at———, before me.

(Signed) ————,

Collector.

This oath duly subscribed, should be forwarded to the Commr.'s office.

Commr. 5th Division, March 9, '48.

Assistant with special powers *not* competent to demand security from a Budmash, but must refer case to M.

Con. 548. April 23, '30.

ASSISTANT.

ASSISTANT, POWERS.

Assistant with S. P. is competent to dispose of VII. 19. cases.

C. 7. May 21, '47.

Con. 529 is rescinded, and Assistant with S. P. is *not* competent to require mochulkas and security under XV. 25.

C. 211. Augt. 2, '45.

Assistant in charge of Sudder Station during absence of M. in the district, cannot commit to S. J.

C. 686. April 27, '32.

Assistant not competent to hear complaints against European British subject under Cap. 105, 53rd Geo. III.

Con. 595. June 17, '31.

Assistant with S. P. *can* decide IV. 40. cases, *when referred to him by* M. But M. can always recall such cases.

S. 1. XXVII. 45.

For treatment of an Assistant by M. and Collr., see "Magistrate" and "Collector's miscellaneous rules."

Applications for special powers for an Assistant, shall be submitted through the S. J. direct to Govt.

C. 11. Sept. 17, '47.

[In the N. W. P. these applications are submitted through the Supt. of Police, with numerous Memos. of cases taken at random from those investigated, or decided by the Assistant, so as to give a fair specimen of his mode of conducting all sorts of work.]

When Assistant is deputed into the interior to enquire into any private question, M. can adjudge expenses of deputation. The deputation to be reported to Govt.

XI. 24.

ASSISTANT, APPEALS.

M. can revise proceedings of Assistant without appeal being made.

Con. 722. Oct. 12, '32.

Para. 1. C. 100. Jany. 28, '42, superseded. Every order of Assist. with or without special powers; P. S. A., or S A., passed in criminal trial, adjudging penalty of fine *and* imprisonment under S. 10. IX. 07. and C. 3. S. 3. III. 21. (which exceeds the limitation of S. 8. VI. 03.) is appealable to S. J.

In like manner, whenever in cases of petty theft, the extended powers conferred by S. 20. IX. 07. and C. 3. S. 3. III. 21. be called into exercise by Assist. &c. &c, the order is appealable to S. J.

C. 159. March 2, '44.

ASSISTANT, APPEALS.

In modification of 3rd rule of C. 100. Every sentence or order of an Assistant with S. P. awarding punishment within the limitations of S. 2. XXXI. 141, is appealable to M., J. M., or officer exercising the powers of M.

C. 210. Sept. 12, '45.

The limitations above alluded to, are, in petty misdemeanours, imprisonment not exceeding 15 days, OR fine of 50 Rs.; except in cases of Zumeendars of 10,000 Rs. a year, Aymadars of 500, and Lakherajdars of 1000 Rs.; who may be fined 200 Rs.

In petty *thefts*, 30 bents, OR 1 month's imprisonment.

Secs. 8, 9. VI. 03.

The rule is simply this: Where "OR" is used, the appeal lies to M. Where "AND" is used, the appeal lies to S. J.

ASSISTANT in charge of J.'s office.

Assistant in charge of office of Civil and Sessions Judge,—Rules for the guidance of.

C. 159. Feby. 6, '35.

On receipt of a petition for staying execution of any order of M. against which an appeal has been lodged, the officer in temporary charge of S. J.'s office, should immediately transmit a copy to the M. in order that he may excercise his discretion as to suspending his order, either with, or without taking security, until appeal is decided.

C. 38. Jany. 28, '40.

Such officer may grant leave of absence on emergency for a short period to Vukeels and Deewannee Omlah.

Con. 1242. Augt. 16, '39.

ATTACHMENT.

ATTACHMENT.—See "Absconding and Evasion," "Processes," "Resistance," "Kham," Distraint," "Sale."

AUDIT.

AUDIT bills not *legibly* signed, will be returned unaudited.

C. A. Feby. 24, '41.

Detailed statement of the *whole* of Establishment, to be transmitted with April abstract, which will not otherwise be audited.

C. A. March 31, '41.

Annual Statement *Pensions* to specify separately those above, and those below 200 Rs. a year, with any alterations, or casualties, which may have taken place.

C. A. March, 31, '41.

Contingent Bills, in addition to the usual authorities now quoted, to give the date of the commencement of the charge, and the time for which it has been authorized.

C. A. May 1, '41. Dec. 8, '47.

AUDIT.—AUTHORITY.—BAGGAGE.—BAIL.

AUDIT.

Monthly list of Pension casualties to be forwarded to C. A.

C. A. June 30, '42.

If the Circular instructions noted below are disregarded, bills will be returned unaudited.

March 31, '34. April 18, '34. Nov. 22, '37. Feby. 8, '38. March 27, '38. April 30, '38. April 18, '39. May 1, '41. C. A. July 19, '42.

Postmaster to send duplicate Contingent Bill to C. A. including all charges, in one monthly bill.

C. A. Augt. 17, '42.

Distinct Bills, alphabetically arranged, to be submitted for each kind of pension, distinguishing the Departments to which they belong, with separate totals for each head. The Monthly Abstract should contain the name of every individual whose allowances are payable from the Treasury.

C. A. May 9, '43.

Commr. to countersign bills of 50 Rs. a month to Joint Magtr. absent from Sudder Station where Govt. may not provide a residence; and should inform C. A. of the date on which such Joint Magtr. assumed charge of his district station.

C. A. Nov. 17, '43.

Form of Statement for Omlah's travelling Allowances.

C. A. Nov. 30, '43.

Care to be taken not to send *separate bills* for audit, on account of charges that ought to be incorporated in the bills, or abstracts, of *fixed establishment*. In the same way, *separate bills* ought *not* to be sent for *extra* allowances and *contingent* charges, which should invariably be included, under their proper heads of account, in the regular monthly contingent Bills, borne out by their respective vouchers and authorities.

C. A. Jany. 25, '47.

Duplicate, as well as the original Contingent Bills, to be countersigned.

C. A. March 30, '47.

AUTHORITY.

AUTHORITY, undue arrogation of, or illegal exertion of judicial authority in a person's own cause, punishable with fine of 200 Rs., offender to be kept in custody till fine is paid.

S. 22. III. 03.

BAGGAGE.

Baggage.—See "March of Troops."

BAIL.

BAIL.—See "Mochulkas," "Security."—Persons charged with Murder, Robbery, Burglary, Theft, Arson, Forgery, Wounding attended with danger to life, shall not be

BAIL. admitted to bail, provided there appear reasonable grounds for believing them guilty. But in all other cases, if sufficient bail for appearance before M. be tendered, Police officer to accept such bail.

C. 8. S. 25. XX. 17. C. 17. March 13, '29.

S. 24. XX. 17. expressly authorizes Police Officers, on receiving a complaint for any bailable offence declared to be cognizable by the native Officers of Police, to "issue a summons" upon the parties accused; that in practice this power has seldom been exercised. In now calling intention to this rule, the N. A. observe that in no part of XX. 17. is it provided that parties thus summoned shall not be discharged without giving bail in their appearance before M.; on the contrary, C. 4. S. 24. leaves it to be inferred that Police Officers may exercise their discretion in taking bail from parties summoned to the thannah on complaints of bailable offences;—they may also *arrest* the same parties, either in the first instance, if circumstances require the immediate apprehension of the accused, or subsequently, if the accused party should not answer to the summons; but in that case, as well as in all the cases provided for by C. 2. 11. S. 20, and C. 3. S. 23, and C. 8. S. 25. XX. 17, the general rule (to which all the others referred to are subordinate) contained in C. 17. S. 19, will come into operation, that "No person who may once be *apprehended*, (*not* merely *summoned*) shall be discharged except on bail, or under orders of M.

Headings of Part 3. Statement No. 1. will be filled up accordingly.

S. N. A. Jany. 27, '49.

Bail not to be required from persons wounding, or killing murderers, robbers, or thieves, in self-defence, except under special order from M.

C. 10. S. 25. R. XX. 17.

In cases of manifest necessity, Police officer may require security for peaceable conduct, in addition to bail, in a bailable offence.

C. 11. S. 25. XX. 17.

Whenever a person in a bailable offence is detained in custody, M. should explain the cause of such detention; if he does not, J. S. should call for explanation before sending up monthly statement to N. A.

C. 49. May 29, '40.

Bail need not be taken in very petty cases; but M. may call for it at any time during the investigation of a case, if he see fit.

S. 8. IX. 07.

Respectable people held to bail on trifling charges, need not be in constant attendance at Cutchery, but a particular day fixed for their attendance. In very petty cases, bail need not be demanded at all.

C. 287. April 2, '24.

A general power is vested in S. J. of admitting to bail parties charged with unbailable offences, whilst charge is under investigation before M. or S. J.

C. 2. S. 9. IX. 07. Con. 111. Oct. 22, '12.

BAIL.

Judge, or other officer, directing M. to commit for perjury, should at the same time fix whether party charged is to be admitted to bail, or kept in custody.

C. 2. S. 14. XVII. 17. C. 169. May 29, '35.

Knowingly receiving stolen property is bailable, and where this is the sole charge, the prisoner should be admitted to bail.

Con. 1237. July 19, '39.

Embezzlement bailable.

Con. 1238. July 19, '39.

Bail bond of person committed to Sessions is in force until trial is finally concluded.

Con. 605. Nov. 11, '31.

If person committed be absent, M. shall call upon surety to produce him; and, on his failure report the case to S. J., who shall determine whether the bond should be enforced immediately, or time be allowed. Security bond to be enforced as Decree of Court, and if not liquidated, surety to have 6 months in Civil Jail.

S. 4. VI. 18.

Amount of bail to be equitable;—Sureties good.

C. 70. April 27, 10.

M. should always certify on the record the offer and terms of liberation on bail, taking care that the amount be not excessive, or disproportioned to the offence and circumstances of accused party.

C. 272. July 10, '23.

Persons required to find bail not to be kept at Nazir's house.

C. 47. Feby. 19, '30.

Murder the only homicide not bailable.

C. 1. S. 9. IX. 07.

All "Privity" to heinous crimes bailable. When M. requires excessive bail, J. can reduce it.

C. 2. S. 9. IX. 07.

In cases committed, or referred to N. A. on account of S. J. not concurring in Futwah, S. J. can always instruct M. to admit to bail.

C. 3. S. 3. VI. 18. S. 7. XIV. 10.

When person on bail in case referred to N. A. is not apprehended for some time, report should be made to N. A. as to date from which sentence should commence.

N. A. R. V. 3. 49.

S. J. or Commissioner when calling for explanation, can order M. to release on bail.

Con. 489. Dec. 12, '28. No. 657. Sept. 2, '31.

BAIL.

BAIL.

In Sessions cases, M. should not enforce penalty incurred by the Surety by failing to produce prisoner, without having obtained authority from S. J. Con. 290. April 2, '18. In his own cases he can enforce the security bond. Con. 1233. Augt. 9, '39. Penalty to be enforced by M. according to the rules and process of Civil Courts in enforcing payment of decree. Con. 734. Nov. 9, '32. If Surety is dead, M. to proceed against his heirs to the extent of any property inherited from him. This liability should be specified in Bail-Bond. Surety, or his heir, can at all times obtain discharge from further liability, by delivering up party engaged for, from whom M. will require fresh security.

C. 74. Augt. 30, '10.

Act. V. 48.

S. 4. IV. 25. repealed. It is lawful for M. and J. M. to take Mochulkas, or penal Recognizances in the form annexed to this Act; as well from British subjects (quere "European?") as from other persons, in all cases wherein it may appear just and necessary to require them for the maintenance of the peace, although the party to be bound may not have been convicted of any specific offence, provided that the amount of recognizance be proportionate to the condition of life, and to the circumstances of the case.

(S. 2.)

In cases of an aggravated nature, wherein it may appear necessary to require security for keeping the peace, in addition to the recognizance of the party, it is lawful for M. to direct the same, and to fix a reasonable amount for the security bond, to be executed in annexed form.

(S. 3.)

When it appears to M. that the period for which the party should be bound to keep the peace, with or without security in addition, need not exceed one year, he will, without reference to superior authority, give directions accordingly; and in default of such recognizance or additional security, commit the party to the Civil Jail until he does what has been required of him.

(S. 4.)

When it appears to M. that the period for which the party should be bound to keep the peace with, or without, additional security, ought to exceed the period of one year, he will record his opinion to that effect, with an order specifying the amount of recognizance and security, as well as the number of sureties, and the period for which the recognizance and security should be required, which shall in no case exceed 3 years. If the party shall not furnish the recognizance and security so required, the proceedings shall be laid before the S. J. who, after examining them, and calling for any further information which he may think necessary, shall pass orders on the case, confirming, modifying, or annulling the order of the M.; and, if the order passed by S. J. confirm to any extent the requisition for recognizance or securities, the S. J. shall direct M. to commit the party to Civil Jail till he does what has been required of him.

(S. 5.)

BAIL.

No person shall be kept in Jail under the foregoing Sections, for a longer period than that for which recognizance and securities have been required from him.

(S. 6.)

The provisions of Secs. 5. 6. 7. VIII. 18. to be applicable to all persons confined under the above provisions of this Act, and to all sureties who shall have given security under this Act.

(S. 7.)

Whenever it may be proved before M. that any such recognizance has been forfeited, he shall proceed to enforce the penalty in the mode prescribed for realization of decrees of the Civil Court.

(S. 8.)

Whenever it may be proved before the M. that any such recognizance has been forfeited, if a security bond shall have been taken, and M. shall think that proceedings should be had upon such bond, he shall give notice to the sureties to pay the penalty, or to show cause why it should not be paid, and if no sufficient cause shall be shown, M. shall proceed to recover the penalty from such sureties, by the attachment and sale of any of their property in the mode prescribed for the attachment and sale of property in satisfaction of decrees of the Civil Court; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement by order of M. in the Civil Jail for a period not exceeding 6 months.

(S. 9.)

All sentences and orders passed under this Act, shall be appealable, subject to the general provisions which regulate appeals.

(S. 10.)

All Mochulkas and Security Bonds which by force of any Act or Regulation may be taken by Criminal Courts of the E. I. C. for keeping the peace, or for good behaviour, may be enforced in the manner prescribed by Secs. 8 and 9. of this Act.

Form of Mochulka.

Whereas I ———, inhabitant of ———, have been called upon to enter into a Mochulka to keep the peace for the term of ———, I hereby bind myself not to commit any act that can occasion a breach of the peace during the said term, and in case of my making default therein, I bind myself to forfeit to Government the sum of Rs. ———. Dated ———.

Whereas ———, inhabitant of ———, has been called upon to give security to keep the peace for the term of ———; I, ———, hereby declare myself surety for the said ———, that he shall not commit any act that can occasion a breach of the peace during the said term. And in case of his making default therein, I hereby bind myself to forfeit to Government the sum of Rupees ———. Dated ———.

BALANCES.

BALANCES. BALANCES.—See "Jummah," "Remission of Revenue," "Treasury, head Inefficient Balance."

New Rules and Forms for reporting Balances, to be sent up as soon as possible after the close of the Fuslee year.

S. B. May 15, '38.

Great delay having taken place in submitting the Balance Statements required by C. No. II. the Board inform Commissioners and Collectors that the subject has attracted the notice of Government, and that any cases of unwarrantable delay will be reported.

S. B. July 9, '47.

Costs in Civil Suits, Fees in Pauper Suits, Abkarree Balances, &c. &c. require attention. In all of these it is most important not only to come to an early determination as to the course to be pursued, but also to inform the parties interested of that course; to give them acquittance if the demand is remitted; and to prosecute the claim steadily and systematically if it is to be enforced.

G. O. Feby. 5, '49.

The Board will permit no further delay. All claims must at once be either prosecuted, or remitted.

S. B. April 10, '49.

Where immediate realization of Balances of Tuccavee, Revenue, Abkarree, &c. &c. is impossible, no time should be lost in determining whether the item should be recommended for remission, or be retained on the books. The trouble of deciding this point is often evaded by placing the item amongst those of which the recovery is declared "doubtful." When once sound policy, or justice, requires the remission of an item, its further exhibition as an unliquidated demand is objectionable. The unnecessary retention under the head of Deposits, of items which ought to be repaid to individuals, such as the proceeds of lands attached on account of disputes or from any other cause not involving forfeiture of proceeds, is an injustice. Many of these items may be classified Pergunnawar, and disposed of.

Directions. 328.

The *Bukya Touzeeh* embraces only the balances of antecedent years. The demands, collections, and remissions for the arrears of the three years immediately preceding that for which the return is framed, must be entered separately; but for an antecedent year it is sufficient merely to enter their aggregate amount.

Under collections and remissions should be included only such transactions relating to past year's balances forming the demands shewn in the statement as may have occurred during the year for which it is framed, that is, the past year.

No permanent remissions, that is remissions of a prospective or standing character which are chargeable from year to year, can be entered in this return, such remissions being properly entered in the annual Jummah Wasil Bakee account, the net balances of which are brought on the succeeding year as a demand in this statement.

BALANCES.—BANK.—BAZAR.—BEGAR.—BENTS.

BALANCES.

A Memo. on the back of the return must detail the particulars of the remissions charged therein during the official year, and the date of the Government order must be cited opposite each item. Should the particulars be at much length, the Memo. should be given on a separate sheet of foolscap, attached to the statement.

Manual 15, 16.

BANK.

BANK, Government savings, Rules regarding.

A. R. D. 475. Jany. 20, '34.

Sums not receivable from persons not in Government employ.

A. R. D. Novr. 6, '35.

Bank of Bengal Notes, and Bank post bills, cannot be received in payment of revenue in the N. W. P.

Acct. May 23, '36.

BAZAR.

BAZAR, or Haut, may be established by zumeendars in their own lands, on any days they think proper. M. not to interfere on the plea of its interfering with a neighbouring Haut-holder, unless it may be necessary to prevent a breach of the peace.

Con. 937. Feby. 23, '35. C. 66. Dec. 10, '30.

The levy of "Choongee" does not fall under S. 39. IX. 10. but under S. 9. IX. 25.; and the zumeendar cannot be prohibited from levying it, provided no oppression, or act of violence be committed.

Con. 973. Augt. 7, '35.

BEGAR.

BEGAR person compelling, to receive such penalty as may be consistent with power of M.

S. 3. III. 20.

This prohibition extends to people being compelled to act as coolies by travellers, or marching troops; and to their being compelled for them by the civil authorities. With the last exception, the rules of XI. 06. for giving help to troops and travellers, stand as they were.

Con. 314. May 5, '20.

See correspondence between Govt. and the Milty. Board, 9th Oct. 1846, in which the Officers of Commissariat and Public Works are ordered to make their own arrangements, and the Police "only to assist in cases of urgent State necessity." Also see "March of Troops," "Carts and Carriage."

BENTS.

BENTS commuted to 2 years by C. C.—1 year by M.—1 month by Assist. and Sudder Ameen, (a singular reversal of the axiom that things equal to the same are equal to each other,) in addition to imprisonment for offence.

S. 2. II. 34.

BENTS.

BENTS. This rule does not exempt convicts sentenced to labour in irons from such moderate corporal punishment, as may be unavoidable for the maintenance of Jail discipline.

S. 6. II. 34.

M. *not* to use the expression "instead of Bents" until he has already given the amount of imprisonment authorized for the offence.

C. 2. S. 2. II. 34.

M. only to award imprisonment in lieu of corporal punishment, in cases where authority to award corporal punishment is expressly given to him by the Regulations.

C. 259. July 19, '22.

In Thefts not exceeding 50 Rs. M. *may* give 30 Bents.

Juvenile criminals in similar cases, to get 10 light rattans.

Women not to be flogged; and in no case is any other punishment to be superadded to flogging.

Act III. 44.

This Act does not apply to "*Attempts* at Theft."

C. 3. Feby. 27, '47.

Flogging Adults, optional; flogging Juveniles, compulsory.

C. 174. July 26, '44.

Where a juvenile in a crime, for which an adult accomplice must be committed to S. J. the juvenile must be committed also, and S. J. will give him the same punishment which M. would have done.

C. 835. July 30, '47. C. 234. Augt. 30, '46.

A year in lieu of bents not to be given to Chokeydars, Burcundauzes, &c. &c. who are only to receive *the period of imprisonment to which they were formerly liable.* C. 238. July 14, '37. By S. 6. III. 12. and S. 9. XIV. 16. and C. 259. July 19, '22, they were made liable to bents *instead of fine or imprisonment,* "provided they appear fit objects of bents," and M. is of opinion that bents will frighten more than fine or imprisonment. The natural construction is, that bents being done away with matters return to the statu quo, and Burcundauzes and Chokeydars become liable again only to fine, or imprisonment; but the S. N. A. of the N. W. P. have ruled by an unpublished construction, and also in letter to Judge of Goruckpoor, Augt. 14, '49, that as there is no express law making them liable to fine or imprisonment, Chokeydars and Burcundauzes escape altogether, and are now only liable to dismissal. [This opinion not having been *published* I know not how far it is binding. If it is law, the sooner a new Act is passed to renew the liability of the lower police to fine and imprisonment, the better. But it appears to me that the principle of Con. 1305. Augt. 20, '41, applies to such a case as this; and that as M. is thereby competent to punish as a misdemeanor under the general powers of S. 19. IX. 07. an act which is declared by the Regns. to be an offence, but for which no punishment is specified, he can legally punish Burcundauzes and Chokeydars with fine and imprisonment, to the extent of S.

19. IX. 07. as ruled by Con. 1131. Feby. 16, '38. This is a point which requires to be authoritatively settled. Con. 923. Dec. 19, '34. says, "that as Burkundauzes, Chokeydars, &c. found guilty of neglect of duty, were not formerly liable to stripes *in addition to imprisonment*, the provisions of II. 34. in prohibiting the inflicting of stripes, do not authorize an addition to the *period of imprisonment to which they were liable previous to the issue of that enactment.*" Surely if there is any meaning in words, it follows, that Burkundauzes and Chokeydars *are* liable to imprisonment; but that **M.** cannot give them *a year* in lieu of bents, instead of the 6 *months* to which they were formerly liable under the Genl. Regns. Although S. 5. VIII. 09. declares that "Police Officers guilty of neglect are liable to be fined one month's salary, to be levied by a stoppage of the fixed allowances payable to such officers,"—yet I fear that this cannot be construed to include Burcundauzes and Chokeydars; as, from the context, it is evident that the law only contemplated "Cutwals and Darogahs.") **BENTS.**

Only **M.**, **J. M.**, and Officers exercising the powers of **M.**, can award corporal punishment, relatively to the wording of III. 44. and the definition of the term "Magistrate" given in S. 4. II. 39.

C. 174. July 26, '44.

Circular 1. Nov. 10, '37, amended, as it gives too restricted a meaning to S. 6. II. 34. All offences which are opposed to the maintenance of discipline in Jail, are, when committed by "convicts sentenced to labour in irons," punishable with stripes; and therefore the exception of S. 6. II. 34. must be held to extend to the several offences enumerated in S. 5. XIV. 16. as opposed to the maintenance of "good order and discipline" when established against "convicts sentenced to labour in irons." The flogging must be "moderate" and inflicted only when thought to be "unavoidable" for the maintenance of good discipline.

N. A. Nov. 13, '46.

A year in lieu of Bents, can be given in addition to 6 months for theft.

Con. 1183. Oct. 12, '38.

A year in lieu of Bents can also be given in addition to 2 years under S. 5. XII. 18. to a prisoner escaping from Jail.

Con. 1184. Oct. 12, '38.

Corporal punishment must be inflicted in the presence of **M.**, **J. M.**, or other person lawfully exercising the powers of **M.**

C. 59. Sept. 24, '30. C. 174. July 26, '44.

BILLS.—See "Treasury." **BILLS.**

BOATS, of illicit dimensions, see XXII. 1793. **BOATS.**

BONDS.—See "Security." **BONDS.**

BOUNDARY.

BOUNDARY.

BOUNDARY. 1.—It is lawful for Collectors in N. W. P. to fix the boundaries of fields, or estates, and to require that marks be formed and maintained by the owners, or occupants, on the boundaries, whenever they may be of opinion that such demarcation is necessary for the prevention, or adjustment, of disputes.

2. Notices to be served on the persons owning, or occupying, the conterminous fields, or estates, requiring them to form, or repair, the said boundary marks within 10 days from the date of the notice; and in the event of their not being found, the notice to be posted in a conspicuous place in the village. (These Rules *must* be followed. Commissioner 5th Division, Feby. 28, '48.)

3. If they do not comply with the requisition, the Revenue Officer shall give directions for the erection and repair of such boundary marks, the cost of which shall be equitably apportioned on them, and realized as arrears of land revenue.

4. Any person convicted of wilfully erasing, removing, or injuring, such boundary marks, liable to fine of 50 Rs. for each mark so injured; one half of which fine may be awarded to the informer, and the other half shall be chargeable with the cost of restoring the mark. Whenever it may not be possible to detect the offender, the marks shall be re-erected at the charge of one, or both, parties, as Collector may consider just and equitable.

5. Disputed boundaries shall be fixed by Revenue Officers under the powers, and in the manner prescribed in Regulations VII. 22. and IX. 33. and shall be similarly open to appeal.

6. Magistrates prohibited from taking up boundary disputes under IV. 40; but whenever they have reason to apprehend any breach of the peace, in consequence of a disputed boundary, they shall certify the circumstances to Collector who will mark off the boundary in the mode above indicated, and uphold possession of the parties according to the demarcation.

Act I. 47.

Rules for decision of Boundary Disputes.

Para. 8. The principles on which boundaries should be laid down, are, the maintenance of possession where it is clear and undoubted; the determination of it where it is questioned, and the conferment of it where it is unascertainable.

9. The possession of cultivated land can never be unknown. The possession of uncultivated land is marked by the right to wells, houses, fruits of trees, or spontaneous products of the earth.

10. Care is requisite in admitting the existence of disputes. One man must not be allowed to disturb the undoubted possession of another. In such cases the claim should at once be negatived. Wherever possession is evidently doubtful, and a dispute is found to exist, the limits of the disputed tract must first be accurately defined.

11. The contending parties should be allowed 7 days to settle the dispute, either by compromise, or private arbitration, or in any other way they prefer. Every means should be used to bring them to an amicable arrangement.

13. If not decided in 7 days, Revenue Officer to take from his list of respectable persons in the pergunnah, 15 or 20 in the vicinity of the dispute, and having summoned them, to write each name on a slip of paper, and draw 3 or 5. As each name is drawn, the Officer shall allow either party to object for sufficient cause, as relationship, alliance, enmity, debt, &c. setting aside any one against whom sufficient cause may be

shown, and recording the fact and reason. So soon as 3 or 5 unobjectionable assessors have been selected, the statements and proofs of parties to be laid before them, and a decision of the majority taken. The Officer shall immediately, with the aid of the assessors, mark off the boundary according to the award. **BOUNDARY.**

Directions to Settlement Officers.

Collectors and Deputy Collectors have ex-officio the powers of I. 47. If it be desired to confer the powers upon other officers, such as Assists. or Tuhseeldars, the orders of Government must be specially obtained.

S. B. May 18, '47.

BREACH of the PEACE.

Breach of the Peace.—Landholders, Farmers, and Chokeydars to prevent all acts of violence, and breaches of the peace; to apprehend and deliver over the offenders to the Police; and assist Police in apprehending them.

Wilful neglect of the above, to be punished with forfeiture of estate, or a fine to Government.

C. 2. 3. Sec. 3. XXXV. 03.

See "Mochulkas."

BRIBERY.

Bribery.—See "Corruption and Bribery."

Act I. 1849.

Act I. 1849.

BRITISH SUBJECT, NATIVE.

1. Regulation V. 1809., VIII. 1813., S. 6. I. 22. IX. 22. VIII. 29. rescinded.

2. All subjects of the British Government, and also all persons in the Civil or Military service of Government, while actually in such service, and for 6 months afterwards, and also all persons who shall have dwelt for 6 months within the British Territories under the Government of the E. I. C. subject to the laws of the said Territories, who shall be apprehended within the said Territories, or delivered into the custody of a Magistrate within the said Territories, wherever apprehended, shall be amenable to the law for all offences committed by them within the Territory of any Foreign Prince, or State; and may be bailed, or committed for trial, as hereafter provided, on the like evidence as would warrant their being held to bail, or committed for the same offence, if it had been committed within the British Territories.

3. The committing **M.** immediately, and before the trial, shall report every such case to Government, and shall obey the orders he may receive.

4. Government may order the trial to be held before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within the British Territories.

5. When the offence is charged to have been committed in the Territory of any Foreign Prince, or State, administered by Officers acting under the authority of the E. I. C., in which territory a Court, competent to try the person charged for the offence, is established by authority of the G. G. in C., the Government may order such

BR. SUBJECT, NATIVE.

person to be conveyed in custody out of the British Territories, for the purpose of delivering him up for trial before such Court.

6. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of Government can be received and acted upon; when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before M. on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as M. shall require; and if Government shall order the person charged to be tried within the Presidency, M. may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

7. Special order of Government full authority for trial, or for delivering to Foreign State.

8. This power may be delegated to Commissioner or other authorised Civilian.

I. 49.

In making applications to bring parties to trial, the following form should be used.

" List of Persons concerned in ——— prepared in the district of ———.

Name.	Caste and Age.	Residence, Mouzah, Pergunnah, District.	Offence charged.	Where committed. Name of place, Pergunnah, District.	Date of Offence.	Place and Date of apprehension.	By whom made over to Magistrate.	Remarks.

G. O. Nov. 9, '41.

In committing such a case, copy of M.'s application, with the orders of Govt. in original, to be filed with the proceedings.

C. No. 4, June 6, '28.

In committing a B. S. for a crime committed out of the British territory, the case of the case should be first submitted to Commr.

Native born within the British territory is always British, however long he may have lived abroad.

Con. 703. July 6, '32.

The rescinded Regns V. 09. VIII. 13. I. 22. IX. 22. were held to be applicable only to crimes perpetrated by parties *subsequently* to their naturalization in the British territory, by a letter of S. N. A. to Judge of Goruckpoor, dated July 6, '47. and the same principle will apply, I should suppose, to Act I. 49.

See " Demand for surrender of Refugees,"—" Emigrants."

BRITISH SUBJECT.—DEFINITIONS.—MILITARY.

British Subject, European. BR. SUBJECT, EUROPEAN.

1.—Definitions. ..... *Page* 53
2.—Military..... 53
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4.—Criminal.... { Officers, by whom cognizable..... 54
Penalties..... 55
Procedure, and miscellaneous..... 56 }
5.—Revenue 56
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8.—Insane—see " Insane."

1. *Definitions.*—The illegitimate son of a British father by a native mother, can be tried for adultery; but a married woman, the legitimate child of a British father, is not amenable to the local Courts, on a similar charge. DEFINITIONS.

Con. 978. Septr. 11, '35.

Illegitimate children considered of the same country as their mothers.

Con. 806. Jany. 26, '33.

All Europeans, not British subjects, amenable to M. like natives.

C. 1. S. 19. VI. 03.

The onus probandi of proving exemption, rests with defendant claiming it.

N. A. R. V. 2. 111. Con. 759. Feby. 15, '33.

2. *Military.*—E. B. S. attached to the Army, serving at any place either not within the Bengal territories, or above 120 miles from Calcutta, when apprehended by a M. on charges of a criminal nature; M. not to take evidence on the charge himself, but to deliver over the person charged, with a statement of the charge, to the Comdg. Officer of the Corps to which he may belong, to be brought to a Court Martial. S. 2 XX. 25. This rule *not* to apply to troops in Fort William, or any other place not more than 120 miles from it, where the powers vested in M. and J. P. remain in force. MILITARY.

C. 6. S. 2. XX. 25.

Actions against B. S. attached to the army, to the amount of Rs. 400, are cognizable *only* by a Mily. Court of Requests; but European officers and soldiers are still amenable to the local civil Courts for debts exceeding 400 Rs.

C. 3. S. 3. XX. 25.

M. has no longer jurisdiction in debts of officers and soldiers under 50 Rs. due to natives of India.

C. 2. S. 3. XX. 25.

BRITISH SUBJECT.—CIVIL.—CRIMINAL.

BR SUBJECT. CIVIL.

3. *Civil.*—E. B. S. by becoming Moonsiff, S. A., or P. S. A. (Principal Sudder Ameen), becomes liable in respect of all acts done by him in his *official* capacity to the same proceedings, Civil and Criminal, and is amenable to the same tribunals, as if he were not of British birth.

VIII. 36.

No person whatever, shall by reason of place of birth, or by reason of descent, be in any *civil* proceeding whatever exempted from the jurisdiction of any of the Courts of S. A.—P. S. A., &c. &c.

XI. 36.

(Why should they be exempted from the jurisdiction of the Criminal Courts? The present state of the law is very absurd. It is to be hoped that Government will experience much inconvenience and expense in some European's case, and we shall then have the "Black Act" extended to the Criminal Courts.)

Any Decree passed against an E. B. S. shall be enforced in the same manner as one against a native. The salaries of Military Officers, however, are *not* liable to attachment.

Con. 786. May 3, '33. 902. Octr. 24, '34.

CRIMINAL.

4. *Criminal.*—M., although he may not have taken the oath of J. P. may take cognizance of complaints preferred by a native against E. B. S. not amounting to Felony, and fine Rs. 500.

N. A. R. IV. 41. C. 57. Septr. 3, '30.

Ditto *full* Joint Magistrate.

Con. 900. Septr. 12, '34.

Assist. with special powers *not* competent to take cognizance of charges against E. B. S.

III. 21. Con. 595. June 17, '31.

J. P. has jurisdiction in cases of debt not exceeding 50 Rs. due from E. B. S. (not an officer or soldier, with reference to whom this enactment has been repealed by S. 57, C. 81, 4th G. IV.) to a native of India.

S. 106. C. 155, 53rd. G. III.

E. B. S. committing any assault, forcible entry, or other injury accompanied by force, (not being Felony) against the person, or property, of any native;—Fine of 500 Rs. to be levied in case of non-payment, by distress; and, if no property be found, offender to be committed to some fit place of confinement; or if such place be not in existence, to the Jail of Calcutta for not more than 2 months, unless such fine be sooner paid. Any part, or the whole of the fine, may be paid to the party aggrieved and the rest transmitted to the Clerk of the Crown.

S. 105. C. 155. 53rd. G. III.

BRITISH SUBJECT.—CRIMINAL.

The penalty of a Security Bond is *not* to be levied, in the event of a breach of the peace, by M.; but, under G. O. June 9, '30, the proceeding for the forfeiture of recognizances to keep the peace, is in the Supreme Court, consequently the amount is not limited to the 500 Rs. leviable by M.

Con. 826. Septr. 6, '33.

Any person using menacing gestures, or expressions, or otherwise obstructing justice, in the presence of M.; J. M.; or other officer empowered to try criminal cases,—Fine of 200 Rs. or 1 month.

S. 1. XXX. 41.

S. 4. VII. 19. for compelling a person to provide for his wife and children, is *not* applicable to E. B. S. as defendant.

Con. 1141. March 23, '38.

For law between Master and Servant, see "Master."

S. 33. 35. XVII. 37. for punishing offences against Post Office Laws, *not* applicable to E. B. S. resident in Mofussil.

Con. 1296. May 21, '41.

E. B. S. in his petition of appeal from decision of M. falsely and maliciously aspersing the character of M. is liable to be punished for contempt of Court.

Con. 1098. Augt. 4, '37.

When E. B. S. is ordered down to Calcutta to stand his trial before the Supreme Court, M. should *not* try, or commit, any native charged with being concerned with the above European, in the commission of the offence, until he has made a reference to the N. A.

C. 79. Jany. 4, '11.

M. who has taken oaths as J. P. holding E. B. S. to bail, or committing him to the Jail at Calcutta, must send original papers to Clerk of the Crown, and copies to Secretary to Government. In cases of difficulty, he should first apply to Government for instructions.

XV. 06. XXII. 39. C. 59, Decr. 12, '09.

European defendant must procure a person qualified to interpret for him, it being no part of the duty of the Court to furnish him with translations.

Con. 1035. Augt. 12, '36.

Evidence of E. B. S. must be taken in English.

Con. 1035. Augt. 12, '36.

Form for serving process upon E. B. S. in Calcutta.

C. 185. Novr. 29, '44.

Commitment of E. B. S. for trial before the Supreme Court, to be supported by direct proof of his amenability to that Court; namely, the evidence of a credible

BR. SUBJECT. CRIMINAL.

person, who knows the accused, and his place of birth, or who has heard him declare of what country he is.

C. 197. April 4, '45.

Parentage and place of Birth of Christian prisoner to be noted.

C. 113. Vol. 2.

E. B. S. brought before M. for any alleged offence, should not be interrogated upon the matters charged, against him, but merely be asked if he wishes to make a statement in regard to the charge, and at the same time warned that whatever he may say, will be made use of against him. After such question and warning, the statements made by the accused are to be taken down. "The examination of ———, "taken by me, ———, Esq., M. of ———, and one of her Majesty's J. Ps. "the —— day of ———, 18 —. The said examinant being charged on the "solemn affirmation of ———, with having (here state the charge) and being duly cautioned, saith....."

C. 199. March 14, '45.

All processes issued to European defendants should be in vernacular and English. Such person, in filing his pleadings and petitions in the vernacular on stamped paper, may add translations in English on plain paper. The deposition of a European witness must be recorded in English, with a vernacular translation made by the Court.

Con. 1035. Augt. 12, '36.

E. B. S. should be allowed the privilege of appearing by attorney in cases of assault.

Con. 570. July 30, '33.

REVENUE.

5. *Revenue.*—It is lawful for any subject of her Majesty to acquire and hold land in India, in the same manner, and under the same rules, as Natives.

IV. 37.

No person whatever shall, by reason of place of birth, or descent, in any proceeding whatever connected with arrears, or exactions of rent, be exempted from the jurisdiction of the Revenue Courts.

No one excepted, in cases regarding rent, from jurisdiction of Moonsiffs.

III. 39.

E. B. S. can, under S. 2. IV. 37, both sue, and be sued, in the Court of Collector, for the trial of Summary Suits.

S. B. Novr. 14, '37. G. O. Novr. 6, '37.

APPEAL.

6. *Appeal.*—Appeal shall lie from all sentences of J. P. acting without the local limits of Supreme Court, upon conviction of any offence; and for all sentences, passed by any M. exercising such jurisdiction, as aforesaid, to the same authority, and subject to

BR. SUBJECT. APPEAL.

the same rules, as are provided by the Regns. and Acts of Government in the case of sentences passed by M. in the exercise of his ordinary jurisdiction; and cases so made subject of Appeal, shall not be afterwards liable to revision by Writ of Certiorari. S. 1. IV. 43. The above clause shall not be held to take away the power of quashing any conviction, by Writ of Certiorari, in any other cases than where there has been such appeal as aforesaid.

S. 2. IV. 43.

WILLS.

7. *Wills.*—Zillah Judge is bound to take charge of the property of E. B. S. dying within his zillah, and, on a will being discovered, to deliver over the same to the party who may obtain probate. The fact of there being a claimant, or near relation, on the spot, willing to take charge of, and be responsible for the property, will not exonerate the Judge. He must retain charge, until the Registrar of the Supreme Court, to whom the circumstance should be immediately reported, or some other person, shall have obtained letters of administration, when the property is to be delivered over to him.

Conr. 983. Octr. 16, '35.

If a *will* be in existence, and be found *before* the Judge have formally, by the imposition of seal, received charge of effects, his interference is clearly barred, whether Trustee or Executor, appointed in such will, be on the spot, or not. If, *after* taking charge, a will be found, the Judge will retain charge until Probate is obtained from Supreme Court.

C. D. A. 983. June 3, '45, in G. June 24, '45.

BUDMASH.

BUDMASH.—See "Security in Criminal Case," "Vagrant." M. prohibited from requiring security for good behaviour from persons charged with, but not convicted of, a specific offence, on the grounds of strong suspicion of their having committed it.

C. 1. S. 2. VIII. 18.

This not to prevent S. J. from demanding security, when the prisoner may, from the evidence on the proceedings, appear to be of notoriously bad, or dangerous character. C. 2. S. 2. VIII. 18.

The amount of Security, number of Sureties, and period of time, to be always fixed. S. 3. Also period of imprisonment in default of Security.

S. 4. VIII. 18.

Sureties may, at all times, obtain a discharge from future responsibility, by delivering up the budmash.

S. 7. VIII. 18.

Budmash not to be detained by M. more than 12 months.

S. 8. VIII. 18.

Any person so desperate, or dangerous, as to render his release without security after 12 months, hazardous, to be sent by M. to S. J. with the proceedings, and his

BUDMASH. opinion as to the amount of security to be required, the number of sureties, and period of responsibility; and S. J. can, if he thinks fit, demand security, and, if not given, detain the prisoner for 3 years.

S. 9. VIII. 18.

When, from the prisoner being a Dacoit, &c. &c. whom it would be unsafe to release after 3 years, his case should be brought up again at the end of 3 years for further orders. S. 10. VIII. 18. S. 2. VII. 31, when security may be demanded, and, in default, he may be detained in confinement.

Con. 771. March 22, '33.

No person to be confined on a requisition of security, under VIII. 18, without *proof of recent circumstances warranting the imputation of dishonest livelihood* at the time of apprehension.

C. 9. Septr. 26, '28.

Previous convictions are not sufficient. There must be proof of circumstances indicating a dishonest mode of life.

Supt. of Police, No. 5 of 1847.

M. is *not* to demand security after the expiration of a prisoner's period of imprisonment, the specific sentence being sufficient.

C. 250. March 29, '22.

Any persons assembling together, or travelling in large bodies, under circumstances leading to suspicion that they have assumed a fictitious character, and not being able to give a satisfactory account of themselves, to be detained for enquiry by Darogah, or forwarded to M. who, after enquiry, may compel them to return to the place whence they came.

C. 2. 3. S. 7. III. 21.

Distance, or residence in another district, no reason for refusing a Surety.

Con. 920. Decr. 5, '34.

A Budmash escaping before he has been regularly discharged, to be imprisoned with hard labour for six months.

S. 10. XXII. 93.

M prohibited from banishing vagrants and offenders from a city, or zillah. This not to prevent M. from expelling a vagrant who may consent to quit the jurisdiction.

C. 159. Feby. 24, '16.

On written charges, or credible information being given to a Darogah, of any Budmash, he shall make private inquiries, and, should he see fit, apprehend him, and, as he accounts for himself, either discharge him on bail, or transmit him to M.

C. 2. S. 20. XX. 17. C. 81. Jany. 17, '11. C. 149. May 11, '15.

BUDMASH.—BAGHS.

BUDMASH.

When Darogah is ordered by M. to make inquiries, he should summon four or more, of the principal inhabitants (C. 4.) of whom not more than four should be sent in to M. as witnesses to the soorut-i-hal.

C. 5. S. 20. XX. 17.

Such inquiries to be completed by M. as quickly as possible, to prevent all unnecessary hardship to persons apprehended on suspicion of bad livelihood.

C. 81. Jany. 17, '11.

Under C. 3. S. 2. VII. 11. the Darogah not to apprehend a person charged only with being of suspicious or notorious bad character, until he has completed the inquiry therein directed, to ascertain that the charge is well founded. He should send the written evidence with the accused to M , at the same time taking recognizances from the witnesses in conformity with S. 15. IX. 07. to appear before M. on a specific date.

C. 149. May 11, '15.

Darogah should apprehend all vagrants and suspicious persons, of whatever denomition, wandering about the country in parties, or lurking about individually, without any fixed place of abode ; or who though resident in a particular place have no ostensible means of honest livelihood, and on examination are unable to give a satisfactory account of themselves.

C. 8. S. 20. XX. 17.

All Budmashes to be released in the presence of the headman of their village. C. 6. and should such headman omit to inform Police of the Budmash being absent from his village at night, or of his ceasing to labour, or obtain a livelihood by creditable means ; or of his keeping bad company ; Fine of 100 Rs., or 1 month in Civil Jail.

C. 6. 7. S. 20. XX. 17.

Headman should be exhorted to enable the Budmash to procure an honest livelihood.

C. 219. Feby. 9, '19.

Party on whom a *Suburee* may be found, to be imprisoned with hard labour until he give security ; or until S. J., before whom a list of persons so detained has to be laid by M. shall, on revision of M.'s proceedings, direct their release on mochulkas.

S. 6. I. 11.

BAGHS.

BAGHS.—Property in, is not generally property in the soil, and only vests whilst the trees remain. When they fall, or are removed, and the ground becomes arable, it reverts to the zumeendar, and becomes included in the malgoozaree lands of the mouzah, unless special right, or custom, can be shewn in the particular instance.

Letter of R. M. Bird, May 30, '31.

BUILDINGS.

BUILDINGS, civil, all repairs and works beyond Rs. 500, to be done by Engineer.
Court of Directors, March 31, '32. S. B. IV. 10.

No repairs, or alterations, can be made to public buildings occupied by private individuals, without sanction of Govt.

G. O. June 2, '36.

If no progress is made in public works, it is the duty of M. or other public officer, to whose department the work may belong, to report the circumstances to Govt.

C. 253. May 3, '22.

Buildings, or other property required for public purposes, under Regn. I. 24. See "Land."

Superintendence of, under XIX. 10. See "Nuzool."

No glass to be used in Civil Buildings nearer the floor than 3½ feet.

In Cutcherries, some one person to be made responsible for the glass in each room, he being answerable for any panes that may be broken, unless he informed at the time, and proved the fracture to have been unavoidable, or produced the breaker.

In Circuit houses, the native Agent to demand payment of all panes broken by temporary occupant.

No charge to be admitted for repairs of glass, if it can possibly be avoided.

S. B. IV. 12—15.

BULLOCKS.

BULLOCKS.—S. 5. VII. 19, is not applicable to the enforcement of contracts for furnishing hackeries and bullocks to Indigo Planters. C. 186. Decr. 13, '35; but it is applicable to the driver of a hackery and bullocks, his own property, who engages therewith to perform certain work, and wilfully neglects, or refuses, to fulfil his engagement.

C. 197. May 20, '36.

See "Carts and Carriage," "March of Troops."

BURGLARY.

BURGLARY, under 100 Rs., unattended with aggravating circumstances; Two years imprisonment, and 30 bents.

C. 5. S. 2. XII. 18.

Burglary and theft, unattended with violence, not to be investigated by Darogah, without petition on unstampt paper, or an express order from the M.

C. 130. Decr. 21, '32. Con. 1354. Augt. 5, '42. S. 2. II. 32.

Proceedings of trial were declared void, in consequence of the investigations of the Police having been conducted in contravention of C. 2. S. 2. II. 32.

N. A. R. V. VI. 35.

BURGLARY.

Chokeydars are still bound to report; and the M. should make use of other sources of information than his Police, to discover crimes.

C. 130. Decr. 21, '32.

Every one, however poor and illiterate, must in person give a written petition, which shall contain, not only a statement of the fact, but also a specific request, either that search may be made for the stolen property, or that the offenders may be apprehended and brought to punishment.

Con. 708. July 27, '32.

In privity to burglary, labour commutable to fine.

Con. 1178. Octr. 5, '38.

Person in whose house burglary, or theft, has occurred, unattended with violence, need not give notice to police, unless he is the zumeendar, and has to report the occurrence in that capacity.

Con. 1338. June 10, '42.

Entering a house with intent to rob, by lifting a door off its hinges, or by loosening and lifting the thatch of a house, is Burglary.

N. A. R. V. I. 270.

No sentence to be passed by M. on individuals charged with two, or more distinct offences punishable under XII. 18. until the proceedings in both cases are completed. On conviction of both, he may pass sentence to the extent authorized for one, if such appear sufficient;—if not, he should commit the prisoner for trial for each offence.

S. 2. VI. 24.

This rule extended to cases of unaggravated theft below 50 Rs. not coming within C. 2. 4. S. 3. XII. 18. by S. 2. VI. 29.

Burglary attended with corporal injury, or other aggravating act of personal violence; or if offender has been before convicted of burglary, robbery, or other heinous crime; or if he shall be a person of notoriously bad character; or have committed the offence while employed in the office of watchman, guard, or police officer; or the property stolen exceeds 100 Rs.; in all such cases it is the duty of M. to commit the whole of the parties concerned.

C. 2. S. 2. XII. 18.

His being chokeydar of another village makes no difference. Any person charged with burglary while employed in the office of watchman, guard, or police officer, *must* be committed.

Con. 374. Jany. 21, '25.

Burglar, previously convicted of cattle-stealing, must be committed; but M. can punish for cattle-stealing a prisoner previously convicted of the same offence.

Con. 1273. March 27, '40.

Gang robbery.—See "Theft."

BURGLARY.

Magtr. may commit when he thinks Burglar deserves severe punishment, though the aggravations may not be those of XII. 18. Previous conviction of theft, not exceeding 10 Rs. does not require commitment.

S. 5. VI. 24.

Burglar killing any one—to suffer death.

C. 4. S. 3. I. 11.

Aiders and abettors of burglary to be punished as principals.

S. 4. I. 11.

Person convicted of burglary with attempt to commit murder, or with wounding, or other corporal injury endangering life;—39 bents, and transportation for life, but the trial to be referred for the final orders of N. A.

C. 4. S. 8. XVII. 17. Con. 558. June 3, '30. N. A. R. March 15, '34.

Person convicted of burglary with wounding *not* endangering life—39 bents, and 14 years' banishment. C. 5. S. 8. XVII. 17.—This is not applicable to "administering intoxicating drugs, and theft."

Con. 1324. April 8, '42.

Buramud Suburee, see "Budmashee."

Prisoners committed to S. J. for burglary by M. may be fettered, or not, according to the nature of the offence, and the character and circumstances of each prisoner, but having in view his safe custody.

C. 206. July 23, '18. C. 210. Novr. 19, '18.

In convictions for Theft, &c. &c. S. J. to state in Abstract statement the circumstances which took the case out of M.'s competence; and M. will state them in his commitment roobakarree.

C. 239. Septr. 1, '39.

In trials for burglary and theft, attended with violence, by a gang of more than 3 armed persons, it shall be specified whether the violence was simultaneous with, or subsequent to the entry; as, in the former case, the crime is "Dacoitee;" in the latter "Burglary" attended with violence subsequent to the entry.

N. A. R. V. 3. 271.

BURCUNDAUZES.

BURCUNDAUZES.—See "Police," "Bents."

CAMP FOLLOWERS.

CAMP FOLLOWERS, subject to be tried by Court Martial, for breach of duty and disorder. S. 2. XX. 10. Sentence to be the same as can be inflicted on soldiers.

S. 3.

CAMP FOLLOWERS.

Menial servants of officers within cantonment, subject to cantonment rules, and liable to native Court Martial.

S. 4.

The military authority extends only to petty offences committed within the limits of a cantonment by a retainer of the army, or servant of an officer, or person registered as attached to bazaar; more grave offences are cognizable by M. exclusively, by whomsoever perpetrated, whether committed within, or without, the limits of a cantonment.

Con. 392. June 10, '25.

Court martial not to inflict heavier punishment than 50 lashes, or 14 days' confinement; or in aggravated cases, both those punishments. Respectable persons attached to bazaars not to be liable to corporal punishment in the *first* instance for breach of local regulations, but to be fined 100 Rs., to be levied by distress and sale of goods found within cantonment; and if sufficient goods be not found, offender may be arrested by Comdg. Officer, and confined 1 month, unless he sooner discharges the fine.—For second offence he is liable to corporal punishment, or to be struck off the register.

S. 13. XX. 10.

Camp follower guilty of inconsiderable assault, or affray, in cantonment, liable to be punished by Native Court Martial with 20 days' imprisonment, or 50 Rs. fine, or 50 lashes; unless the act involves a military offence, when the punishment is that for soldiers under S. 3.

S. 15. XX. 10.

Ditto guilty of petty theft within 100 Rs. within cantonments, to be punished by Court martial with 100 lashes, or 1 month.

S. 16. XX. 10.

Petty offences described in Secs. 15. 16. committed in cantonment by person *not* a Camp follower, the offender, if found within cantonment, to be arrested by Comdg. Officer, and sent to M., who will investigate and punish as in other petty offences.

S. 17. XX. 10.

In all cases of crimes committed within cantonment, which are not cognizable before a Court martial, the offender, whatever his description, if found within the limits, to be arrested, and delivered over to M.

S. 18. XX. 10.

In all places within the jurisdiction of any Civil Judicature, Native officers and soldiers accused of capital crimes, or of offences against person or property, punishable by such Civil Judicature, are to be delivered over to M. to be proceeded against according to law.

XIX. 47. Art. 114.

In petty offences committed by Camp followers above 1 cos from the station, or line of march of a corps, and the offender taken in the fact, M. has concurrent jurisdiction,

CAMP FOLLOWERS.

and may proceed against offender as usual, or at his discretion remit him to Comdg. Officer to be tried by Court martial.

S. 21. XX. 10.

All persons serving with the army, and receiving public pay in any capacity, menial servants, and other Camp followers of every description, are subject to XI. 41. (relative to Military Courts of Requests) and XXVIII. 41. (for extending XXIII. 39. to camp followers, when sentences of imprisonment passed by Courts Martial are carried into effect by M. or other officer in charge of Jail, under II. 40.) in like manner as enlisted soldiers.

S. 2. XII. 42.

Magt. to assist in apprehending persons amenable to Court Martial on a written application being made to him by the Commanding Officer for that purpose; and to make over E. B. S. attached to the army, and charged with felony, to Comdg. Officer of Regt. or Station, to be brought to trial by Court martial.

C. 1. S. 2. XX. 25.

M. to assist all process of European C. M. on receipt of any warrant, summons, or process for the attendance of any person, from the Judge Advocate General, his Deputy, or from other officer appointed to conduct the proceedings of any Court Martial assembled under this Regulation.

C. 3. S. 2. XX. 25.

M. not to enquire into charges against European military; but, if military authorities neglect to do so, he may report case to Government and, if authorised, try the case. C. 4. S. 2. This does not apply within 120 miles of Calcutta, where the power of M. and J. P. remains in full force.

C. 6. S. 2. XX. 25.

CANALS.

CANALS.—Rules for the Canals.

G. O. Augt. 30, '48.

CANTONMENTS.

CANTONMENTS.—In executing process of *Arrest* Civil or Criminal, within Cantonment, the officer intrusted with execution of process of arrest, shall in the first instance carry the same to the Comdg. Officer, or if he is absent, to the senior officer present, who shall back the process with his signature, and shall forthwith use his utmost endeavours to cause the person to be arrested and delivered up. Nothing herein is to be construed to prevent the service of summonses, subpœnas, or other process of mere citation short of arrest.

S. 19. XX. 10.

Civilians, Merchants, and others, who reside within Cantonment, though totally unconnected with the army, are, under C. 1. S. 3. XX. 25, subject, during their actual residence, to the jurisdiction of the military Court of Requests, and to that of no

other Court, in all cases of personal action of debt within 400 Rs.; and they are consequently exempted from the authority of the Company's Courts while so resident. CANTONMENTS.

Con. 876. March 26, '34.

The support of the Police and maintenance of the peace in Cantonments are vested in the Comdg. Officer, who will adopt measures for preventing crimes, and apprehending criminals.

C. 1. S. 2. III. 09.

Comdg. Officer not to interfere in assaults and petty affrays, or other offences of inferior magnitude, unless the offenders are apprehended in the actual commission, when they shall be delivered over to M.

C. 2.

Any person not subject to Court Martial apprehended under the preceding rules in Cantonments, on account of the commission of any public crime or offence, shall be delivered over immediately to M, who shall proceed against the accused as usual.

C. 3. S. 2. III. 09. S. 17. XX. 10.

If any person have a charge to prefer against any individual resident in Cantonments, who may not have been already apprehended by the persons entrusted therein with the support of the Police, or, if the charge be of a nature not to authorize those officers under C. 2. above, to interfere in it; the party deeming himself aggrieved can prefer his charge directly to M., who is hereby required to proceed with respect to it under the general Regns. in the same manner as if the alleged offence had been committed in any other part of his jurisdiction. C. 1. S. 3. Under the foregoing clause, M. is of course empowered to issue his warrants and summonses against any persons residing in Cantonments in the same manner as if such persons resided in any other part of his jurisdiction; and Comdg. Officer to afford every protection to the officers of J., M., and J. P., in discharge of their duty, whether special application may have been made to them for such aid and support, or not.

C. 2. S. 3. III. 09.

No person residing within Cantonment, and carrying on trade therein, or who shall have been a trader in Cantonment, shall be allowed to recover in any Military Court of Requests for the Native Troops of the E. I. Compy. held within Cantonment, any debt contracted in the way of trade, or for the loan of money, within the Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall at the time of contracting it have been registered as a Military Bazaarman.

S. 1. XII. 42.

Actions for Debt, and other Personal Actions against persons amenable to Articles of War, or residing within Cantonment, and carrying on any trade, or business in Military Bazaar, cognizable *solely* before Military Court, if not exceeding 200 Rs., and Defendant was as above when the suit was instituted, and cause of action arose.

But Military Court cannot determine dispute of Caste, or right to real property.

S. 2. XI. 41.

CANTONMENTS.

CANTONMENTS. Such Courts to consist of 3 Officers. (S. 3.) To meet monthly. (S. 4.) To summon witnesses. (S. 5.)

Refusal to attend, or give evidence, perjury, or subornation, in party subject to Articles of War, to be tried by Court Martial;—if not, to be tried and punished by the nearest Criminal Court, whether such Court have ordinarily jurisdiction over him in criminal matters, or not, as if offence had been committed before itself.

S. 6. XI. 41.

Any person whatever menacing or interrupting such Court of Requests, to be brought to Court Martial, or punished by nearest Criminal Court.

S. 7. XI. 41.

No more shall be recovered from the same defendants by the same plaintiff than 200 Rs., and the decision to bar the institution of the case again in any other Court. Contracts, except for goods bought and delivered, above 20 Rs. to be in writing. S. 9. The claim to be also in writing.

S. 12. XI. 41.

Suits to be decided exparte, if people do not attend.

S. 10. XI. 41.

Comdg. Officer may revise, and refer case back once either to the same, or to another Court.

S. 11. XI. 41.

Decrees when general to be executed by Distress. When special, the debt to be satisfied out of the pay and allowances of the Debtor, and not otherwise. Debtor, if not a soldier, can be imprisoned for 2 months in Civil Jail.

Secs. 15, 16.

Beyond British Frontier, Military Courts can decide to any amount of demand, appeal in cases above 200 Rs. lying to S. D. A.

S. 17. XI. 41.

Whenever under XXIII. 39. a Court Martial shall adjudge imprisonment, M. to give effect to sentence on receipt of authenticated copy.

II. 40.

Extended to Camp Followers.

XXVIII. 41.

By S. 26. XX. 10. provision is made for the issue of general Regulations respecting the tenure, or occupation of houses, shops, or other fixed places situated upon ground belonging to Government within a Military Cantonment. The only rules at present in force are the three following, which the L. G. republishes in order that all Civil Authorities may attend to the restrictions therein contained.

G. O. Jany. 14, '48.

CANTONMENTS.

I. 1st. All applications for unoccupied ground in Cantonment to be made to Comdg. Officer through the usual channel; and in no case are the boundaries of compounds to be changed, old roads closed, or new ones opened, without the sanction of Comdg. Officer.

2nd. As the health and comfort of the troops are paramount considerations, to which all others must give way, the Comdg. Officer will be held responsible that no ground is occupied in any way calculated to be injurious to either, or to the appearance of the Cantonment; and in forwarding an application for a grant, he must certify that it is not objectionable in those, or any other respects.

3rd. When no objection occurs, the application is to be forwarded through the prescribed channel by the C. O. to the Quarter Master General, who, if the C. in C. approves, will submit it for the orders of Government.

4th. All such applications are to be in the annexed form A.

5th. All grants are to be registered by the officer of the Quarter Master General's Depart. attached to the division, and at stations where no such officer may be present, by the Executive officer of Public Works, to whom also, in such cases, applications for ground are to be addressed; and all grants are to be immediately noted upon the plan of the Cantonment in the Q. M. G.'s office.

6th. No ground will be granted except on the following conditions, which are to be subscribed to by every grantee, as well as by those to whom his grant may subsequently be transferred.

I. Government to retain the power of resumption at any time, on giving one month's notice, and paying the value of such buildings as may have been authorized to be erected.

II. The ground being the property of Government cannot be sold by the grantee; but houses or other property therein, may be transferred by one Military or Medical Officer to another, without restriction, except in the case of reliefs, when, if required, the terms of sale, or transfer, are to be adjusted by a Committee of Arbitration.

III. If the ground has been built upon, the buildings are not to be disposed of to any person who does not belong to the army, until the consent of the Officer Comdg. the station shall have been previously obtained in writing.

IV. When it is proposed with consent of C. O. to sell to a native, the sale of house worth more than 5000 Rs. cannot be effected without sanction of Government through C. in C.

7th. All houses in a Cantonment being the property of persons not belonging to the army, which may be deemed by the C. O. of the station suitable from their locality for the accommodation of officers, shall be claimed for purchase, or for hire, at the option of the owner. In the former case at a valuation, and in the latter at a rent, to be fixed in case of the parties disagreeing, by a Committee of Arbitration constituted as follows:

8th. The Committee is to be composed of one Civil Officer, the principal one, if practicable, the Comdg. Officer, and an Officer belonging to the station, to be named by the proprietor of the premises; and their decision, whether relating to the terms of purchase, or rent, is to be conclusive, unless it shall be reversed by Government, for whose orders the proceedings of the Committee are to be submitted through the C. in C. whenever the proprietor of the premises which they have valued, is dissatisfied with their award.

CANTONMENTS.—CARTS AND CARRIAGE.

CANTONMENTS.

9th. When the houses of the officers of one corps are to be transferred to those of another, as on the occasion of a relief, if a difference of opinion should arise as to the fair terms of the transfer, the price shall be fixed by a Committee of Arbitration, constituted as in the last paragraph, but to which in such cases there is to be given an additional member to be named by the intending purchaser.

10th. In this case there is to be no appeal, the decision of the Committee being final.

Form A.

To the Assistant Quarter Master General, (or other Staff Officer.)

Sir,—I request you will apply for permission for me to occupy the ground herein described, &c. &c. &c.

Situation of Ground.	*Quantity*	*Bounds*	*How intended to be occupied.*	*Remarks.*
				I have been made acquainted with the terms on which permission to occupy has been given me.

Signed, A. B.

G. O. 179. Septr. 12, '36.

One month's notice to be given of intention to hold a Committee of Arbitration on any premises.

G. O. 174. Augt. 5, '40.

All applications for ground within Military Cantonments to build upon, whether preferred by Officers or others, to be invariably accompanied by a sketch or rough plan of the site designated, embracing a portion of the Cantonment adjacent to it, and exhibiting the public buildings, roads, or private estates, by which it is bounded. This plan, in all practicable cases, to be authenticated by the Officer of the Q. M. G.'s department, or, where no such officer is present, by the Executive Officer of Public Works attached to the division in which the Cantonment may be situated.

G. O. 124. June 9, '43.

Whenever it may be necessary to make Cantonments, it shall be done by Comdg. Officer, in concert with M. in whose Cutcherry a plan of the limits shall be deposited as soon as it has been sanctioned by Govt.

Con. 1119. Decr. 15, '37.

M. shall *not*, under XX. 10. pull down houses in Cantonments, and eject their possessors, merely on requisition of Comdg. Officer.

Con. 1119. Decr. 15, '37.

CARTS and CARRIAGE.

CARTS AND CARRIAGE.—Whenever a detachment has to march, the Comdg. Officer should give the earliest practicable notice to the Collectors of the zillahs through which it is to pass, of the probable time of its arrival at the different places where supplies are required, and the amount of supplies wanted. Also the period of arrival at the different rivers and nullahs, where boats or temporary bridges may be necessary for crossing the troops and baggage. S. 2. XI. 06. On receipt of notification, Collr. to

issue the necessary orders to the Landholders, Tuhseeldars, &c. &c. for providing the supplies, and preparing boats, or bridges. He shall also depute a creditable native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies, and of facilitating the march. It shall also be the duty of such native officer to provide the troops with whatever bearers, boatmen, carts and bullocks, may be indispensably necessary to enable the troops to prosecute their route; and he is at liberty to apply for assistance to the nearest police officer.

C. 1. S. 3. XI. 06.

The supplies furnished under the foregoing clause (including earthen pots, firewood, and every article of supply) shall be paid for by the persons receiving the same, at the current bazaar prices of the place at which they may be provided; and all officers commanding detachments are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing supplies, against any person under their command, and to afford such redress as the nature of the case may appear to require.

C. 2. S. 3. XI. 06. Vide "March of Troops."

When any traveller is in need of assistance to enable him to prosecute his journey, he shall be at liberty to apply to the nearest police officer, to aid him in providing the requisite bearers, boatmen, carts, or bullocks, or any necessary supplies of provisions or other articles. The Police officer shall furnish the aid required, provided that a sufficient number can be procured. But all Police officers are strictly forbidden, under pain of dismissal from office, under V. 04. on applications of the above nature, to compel any persons not accustomed to act as bearers, or boatmen, to serve on such occasions; or to furnish a traveller with bullocks, or carts, kept for private use, and not for hire, or exclusively appropriated to agriculture.

Persons and Carriage so furnished, shall be at liberty to return from the first police station in the next zillah, unless a voluntary engagement to the contrary may be entered into by such persons.

The Police are further enjoined to be careful that a proper compensation for the bearers and carriage employed, and a just price for the articles provided, be secured to the persons entitled thereto. For this purpose, they are authorized to adjust the rate of hire to be paid, and the price of the articles provided; as well as to demand that the whole, or a part, according to the circumstances of the case, be paid in advance. Should any traveller refuse to comply with the adjustment, or demand, so made by the Police, he will not be entitled to any assistance.

S. 8. XI. 06.

In a correspondence with Mr. Robinson, the **N. A.** are of opinion that **M.** or the local police, are required to supply a military officer starting on a journey, with the available number of Carts and Bullocks, not exclusively appropriated to agriculture, and occasionally let for hire, which can be procured within their jurisdiction—subject to the modification of III. 20. which prohibits the compelling of porters, or coolies.

It is objectionable to have recourse to personal violence to compel people to sell their goods at certain fixed prices, or to serve as boatmen or bearers. If people refuse to supply travellers with provisions, or other articles under S. 8, XI. 06. at what the

CARTS and CARRIAGE.

Police consider a reasonable rate, or to receive a fair rate of hire for their own services, or those of their carts or bullocks, the Police are to report to M. for such orders as he may deem proper. Con. 1188. Decr. 7, '38. (What is M. to do? and what is the proper order in such a case? What is "a reasonable rate" or "fair hire?" A thing is worth just what it will bring; and the refusal of parties to sell, or let, at the rate fixed by Police, is presumptive proof, either that the carriage was not for hire, or that the payment offered was insufficient. It is strange that a single traveller, or a company of troops, cannot get on without employing the strong hand of the M. to procure carriage and supplies; whilst thousands of Native travellers and merchants daily obtain all that they want by private arrangement, without any difficulty. I fear our laws are still shaped to benefit ourselves as the ruling caste.)

CATTLE STEALING.

CATTLE STEALING, punishable with 2 years, and 30 bents.

C. 4. S. 3. XII. 18.

The term "cattle" includes tattoos, sheep, goats, donkies, and such like four-legged domestic animals.

Con. 994. Decr. 24, '35.

Magt. need not commit for cattle-stealing a prisoner previously convicted of the same offence.

Con. 1273. March 27, '40.

Police not authorized to levy *Fines* on account of Cattle trespass. Con. 1176. Augt. 31, '38. (But this need not prevent their levying *payment for food and keeping*, until the owner's appearance.—A definite law, and course of proceeding, for Cattle Trespass, is much desired, as no two Magistrates think alike on the subject.

The course of procedure which I have found successful in Azimgurh and Goruckpoor, and which has been approved of by high authorities, is as follows:—

1. Any person finding cattle trespassing, to take them at once by the shortest road, to the nearest police station.

2. If owner claims them on the road, at once to give them up, and make charge of trespass against such claimant.

3. On such trespassing cattle being brought to police station, a receipt to be given to the party bringing them, the cattle to be made over to the thannah herdsman, and an entry to be made in the Diary.

4. Should the owner claim the cattle within a week, and give to the Darogah sufficient proofs of ownership, they are to be given up to him on payment of 2 annas a day for each of the cow kind, and 1 anna for each sheep and goat, as remuneration to the herdsman for food and keeping; and the owner's original receipt sent in to Magistrate.

5. If person who brought the cattle ask at thannah to be informed of the names of parties owning the said cattle, that he may prosecute them criminally or civilly for damages, Police to inform him.

6. If no owner appear, the cattle to be sent in to Sudder Station after seven days, where they are sold after a week's ishtihar.

CAZEES.—CERTIFICATES.—CHARGE OR COMPLAINT.

CATTLE STEALING.

7. Any person locking up strayed, or trespassing cattle in his own house, liable to strong suspicion of having stolen them; besides being liable to fine of 200 Rs. for undue arrogation of authority under S. 22. III. 03.

By these rules several advantages are obtained. 1st. A stop is put to the petty oppression of private pounds. 2nd. People know where they are most likely to find *strayed* cattle. 3rd. Cattle-stealers on whom the cattle are found, are deprived of the plea that they had found them trespassing, and had only locked them up till the owner appeared. 4th. When caught driving away cattle, it is easy to see by the map, whether or not they were driving them the nearest way to the nearest thannah. 5th. The small sums levied for food and keep, act as a check on carelessness. 6th. The party trespassed upon can always discover the owner of the trespassing cattle. 7th. The entry in the Diary and the receipt of the owner, give support to the action of trespass, when brought forward.

(I have found this system work well, and would recommend that some such rules be authoritatively enacted.)

CAZEES.

CAZEES.—Rules regarding.

XLVI. 03.

Cazee it not to exact any fees for drawing up, or attesting papers, or for the celebration of marriages, or the performance of any religious duties, or ceremonies, which it has been customary for them to perform, excepting such as the parties concerned may voluntarily agree to pay, as has been hitherto the practice.

S. 8. XLVI. 03.

C. C. to report to **N. A.** any incapacity, or misconduct, of Cazee.

S. 29. VII. 03.

CERTIFICATES.

CERTIFICATES of number of boats, bridges, &c. &c. prepared for Troops. S. 4. XI. 06. see "March of Troops."

CHARGE OR COMPLAINT.

CHARGE OR COMPLAINT.—**M.** prohibited from referring to Police for report, charges of Adultery, Fornication, Calumny, Abuse, Trespass, or Assault, but should investigate himself, or by Assistant. S. 6. VII. 11. as Police are prohibited from receiving any charge in such cases, by S. 2. VII. 11. and S. 12. XX. 17.

Upon a charge of Felony being made before a **M.** (and deposed to on solemn affirmation by Plaintiff, or other credible person) **M.** shall issue warrant to Nazir for the apprehension of accused.

C. 1. S. 3. IX. 07.

In bailable offences, the amount of bail is required to be specified in the warrant.

C. 3. S. 3. IX. 07.

Complainant must attend and depose himself to a criminal charge, unless sufficient reason can be assigned for his non-attendance. In that case, or if he were not himself

CHARGE OF COMPLAINT.

present at the commission of the act complained of, his written plaint, presented by an authorized agent, and corroborated by the deposition of one or more persons present, shall be sufficient ground for receiving the charge, and for issuing process against the party accused, unless M. see reason for making previous inquiry; but no warrant for apprehension shall be issued at the instance of a complainant, unless the truth of the charge be deposed to either by complainant, or by some other credible person.

This shall not be construed to restrict M. from apprehending a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear, from report of Police officer, or other credible information.

S. 4. IX. 07.

The practice of requiring complainants in the M.'s Court to swear to the truth of what is alleged in their *Petitions*, is prohibited. When any petition preferring a criminal charge is thought by M. to call for judicial investigation, the only regular and proper course is to take the complainant's deposition on oath, so as to get his own statement, not what the Mooktar has made out for him.

N. A. June 23, '49.

If M. distrusts truth of complaint, and if the immediate arrest of the party complained against appear unnecessary, he can postpone issuing warrant for apprehension, and cause previous inquiry to be made, through the Police, or otherwise, as to the truth or falsehood, of the complainant's allegations; and according to the result, either dismiss the complaint, or take bail from accused for appearance in person, or by agent, to answer the charge; or issue warrant for his apprehension.

S. 5. IX. 07.

In suspicious cases, the rule of C. 6. S. 2. III. 12. should be followed, namely, previously to examine the prosecutor as to the specific facts of the case; and satisfy oneself that adequate grounds exist for proceeding against the accused party. In such cases M. before issuing process against accused, should summon prosecutor's witnesses, and examine them.

C. 19. April 3, '29.

In bailable offences, accused to be summoned to attend in person, or by vukeel, according to the circumstances of the case, to answer to the charge on a certain day.

S. 6.

If he does not attend, and give bail if required, he is to be apprehended; and if he absconds, is to be ishtihared, and his property attached under S. 4. III. 04.

S. 7. IX. 07.

Bail need not be taken in petty cases.

S. 8. IX. 07.

Process in petty cases to be served by Peons, who will receive tulubanah according to the rate of C. 3. S. 14. IX. 07., such tulubanah being paid in the first instance by the party complaining.

S. 4. VII. 11.

CHARGE OR COMPLAINT.

Witnesses not to be summoned, unless complainant lodges with Nazir a sufficient sum to support those residing more than 5 cos off, at discretion of M. See "Diet Money."

C. 1. S. 2. III. 12. VII. 46.

Witness to be paid whilst coming, attending, and returning. The surplus to be returned to prosecutor. C. 2. S. 2. If detained above a month, prosecutor to deposit a further sum. On his failure to do so, the complaint to be immediately dismissed.

C. 3. S. 2. III. 12.

S. J. cannot prohibit M.'s issue of warrant, when the M. thinks it necessary to apprehend under S. 4. IX. 07. on report of Police officer.

Con. 1100. July 21, '37.

M. competent to demand security from person preferring charges of corruption, or extortion, against Police officers, whenever he may have reason to suspect them to be false and malicious.

S. 12. XII. 03. S. 10. X. 06. Con. 731. Nov. 2, '32.

Under S. 6. XVIII. 17. and S. 4. III. 27. M. is competent to entertain and investigate a charge of corruption against an officer of Commr. or S. J.

Con. 649. July 22, '31.

Suits against a person who has no interest in claim, in Supreme Court.—Rules regarding.

VIII. 41.

Complaint or *Charge, malicious, vexatious, or unfounded,* punishable by 15 days, or 50 Rs., and Zumeedars of 10,000, Aymadars of 500 Rs. and Lackerajdars of 1000 Rs. by fine of 200 Rs. S. 10. VI. 03. In extension of the above, M. may give 6 months S. 5. VII. 11. But this *cannot* be inflicted in addition to the former, the maximum being 6 months, *or* 50 Rs., except in the particular cases where 200 Rs. is allowed.

Con. 459. Augt. 31, '27.

The wickedly and maliciously entering into a *Conspiracy,* to the injury of another party, is punishable under the General Regulations.

LIII. 03. IX. 07.

Party conspired against should appear as prosecutor.

N. A. R. VIII. 171.

False complaint before Darogah, not sworn to, is not punishable under S. 5. VII. 11.

Con. 1189. Decr. 14, '38.

S. J. cannot punish for false complaint in case committed to the Sessions, though he can direct the commitment of prosecutor and witnesses for perjury. Con. 528.

CHARGE or COMPLAINT.

Octr. 30, '29. But in appealed prosecutions brought by private individuals, he can punish in particular cases appearing to deserve it.

Con. 530. Novr. 27, '29.

A merely litigious appeal is not punishable; but if a prosecutor persists in bringing before M. a malicious charge dismissed by a subordinate Court, he can be punished under S. 5. VII. 11.

Con. 12. June 21, '39.

A false deposition on oath, containing a deliberate and specific criminal charge, which the deponent knows to be unfounded, and which also appears to be malicious, comes within Perjury under II. 07. notwithstanding the provision for malicious, vexatious and unfounded charges in S. 5. VII. 11.

Con. 233. Jany. 29, '16.

False Abkarree complaints and search, see "Abkarree."

False complaint against European Officers,—imprisonment with, or without, labour and irons for 6 months, and 500 Rs. or 6 months more. S. D A. to execute its own order. S. B 's to be executed through Register of S. D. A. S. 5. VIII. 25. Commr. is not competent to punish under this Regn. though he has the power of a Magt. in the punishment of false complaints against Native Police. Con. 754. Feby. 1, '33. A charge may be founded on oath, without petition.

Con. 1199. Feby. 1, '39.

False or malicious complaints before Revenue Authorities, cannot be punished by M.

Con. 1220. July 5, '39.

CHEATING.

CHEATING.—See "Fraud."

CHILDREN.

CHILDREN.—Person able to support his children, and deserting them, or wilfully neglecting to provide for them, whether legitimate, or illegitimate; to bind himself down to support them, or be imprisoned 1 month, and so on, toties quoties.

S. 3. 4. VII. 19.

M. can *not* demand security; and can only require the husband to enter into a written engagement to provide for his wife, and punish every breach of the engagement as a misdemeanor, with 1 month.

Con. 992. Decr. 18, '35.

S. 4. VII. 19. as to the support of illegitimate children, and the mothers of illegitimate children whilst in a state of pregnancy, or having the care of an infant child, does not apply to E. B. S. as defendant.

Con. 1141. March 23, '38.

Illegitimate children considered of the same country as their mother.

Con. 806. July 26, '33.

CHILDREN.—CHOKEYDAR.

BENGAL SECRETARIAT LIBRARY

CHILDREN.

The evidence of the mother of an illegitimate child against the alleged father, is admissible; but should be tested by any circumstantial evidence.

Con. 1163. Augt. 3, '38.

M. to exercise discretion in exerting this official authority in matters connected with the guardianship of children; but should in general refer the parties to the Civil Courts.

C. 239. July 14, '37. Con. 1060. Novr. 3, '36.

M. should, on every proper occasion, impress on parents the danger of jewels to children.

C. 195. Feby. 4, '18.

A child not appearing to have a sufficient sense of the nature and obligation of an oath, not to be examined at all in criminal trials. Its deposition may be taken in preliminary inquiries, and be placed among the records, not as evidence in itself, but as a clue to other evidence.

C. 1. Feby. 1, '28.

Trial and Punishment of Children by **S. J.**—See Beaufort, page 32.

Child stealing.—Any punishment short of death.

S. 2. LIII. 03.

Person stealing a child in a foreign country, and retaining possession of it in the Compy.'s Territories, may be tried for having possession of it, knowing it to have been stolen.

Con. 1043. Septr. 30, '36.

CHOKEYDAR.

CHOKEYDAR is *not* exempted by II. 32. from reporting burglaries and thefts.

C. 130. Dec. 21, '32.

By S. 6. III. 12. and S. 9. XIV. 16. Chokeydars and Burcundauzes are to receive 30 bents, instead of fine, or imprisonment, if offender appears fit object, and **M.** thinks bents will deter more. By C. 238 July 14, '37, they are only to receive the period of imprisonment *to which they were formerly liable*, and not the full year in commutation of bents.—It appears that there is no express Regn. making them liable to any fine or imprisonment; and the **S. N. A.** have therefore ruled in an unpublished Con. that Chokeydars and Burcundauzes are, in the present confused state of the law, only liable to dismissal. (This construction repeated in letter to Judge of Goruckpoor, dated Augt. 14th, 1849; but it has not been published, and it appears to me that under C. 10. S. 21. XX. 17. S. 7. III. 21. and S. 6. III. 12., chokeydars guilty of gross neglect and misconduct in the discharge of their duties ARE *liable to Fine and Imprisonment not exceeding the limitation prescribed by S.* 19. *IX.* 07. The sooner this question is set right, and the Chokeydars again brought within the power of **M.**, the better; as dismissal to a man starving on 5 beegahs is a mere farce, and no punishment at all.)

CHOKEYDAR.

CHOKEYDAR. In a letter to Govt. dated the 14th Augt. 1840, the S. B. say, para. 17, that "to carry out a scheme of arbitrary money payments to Chokeydars, where the Settlements have been completed, and the engagements exchanged, is impossible. Para. 18. The policy of such a proceeding, even where the Settlements have *not* been completed, is very questionable. Para. 25. If an additional number of chokeydars are to be appointed with monthly pay, such a measure cannot be introduced where the Settlements are already made, because, after the compact with the people, fixing all they have to pay, has been completed, we cannot introduce a fresh demand. Consequently if it be thought requisite to increase the village police force where the Settlements have been finished, the pay must be provided for by a reduction in the receipts of Govt., not by an increase of the demands from the people." (Bravely said,) Para. 26. "Wherever an increase upon the existing village police is established, even though the Settlement be not completed, the additional charge will, in reality, be a deduction from the Jummah of Govt."

On this, in a letter No. 4622, Octr. 19, '44, addressed to Commr. of Allahabad, the Lieut. Govr. expresses "his full occurrence." "It is *not* desirable to commute the service-land immemorially assigned to the village watchmen, for a money payment. The object of the Govt. should be *to work through the village institutions*, not to set them aside, and by aiming at the centralization directly in the hands of the Executive, to lose all the co-operation which the people can render. The security of the people will be most effectually consulted by their own efforts, exercised through their own village officers. M. should carefully maintain the watchmen in the enjoyment of the allowances assigned to them at the Settlement. Where the number is too few, that is less than 1 chokeydar to 60 houses, the Lieut. Govr. has authorized the increase of the establishment to that amount, at the rate of about 3 acres for each man. A reduction in the Assessment will be allowed for the land thus taken, on the principles laid down in the C. O. S. B. No. IV. S. 5.

The Lieut. Govr. does *not* recognize the obligation of Govt. to provide from Land Revenue for chokeydars along the roads; and does not approve of magisterial caprice appointing such chokeydars. Highway robberies, &c. &c. arise from a relaxation of vigorous control over the native community, under a weak and inefficient M., and will not be stopped by a few road chokeydars. The ordinary police should be adequate to protect the roads, if the zumeendars are held strictly to the responsibilities for preserving the public peace which legally attach to them. The M. who energetically exercises his legal powers, and uses his Police, not only for the detection and punishment of the actual perpetrators of crime, but also for the enforcement of the legal penalties against those who conceal, countenance, abet, or shelter the criminals, will find his influence much greater and more effectual than it could be by the easy remedy of a few chokeydars extorted from the zumeendars, which are accepted as a compensation for all delinquencies, and offered as an excuse for avoiding further and more troublesome inquiries."

Chokeydars do not cost much. During the last year 1905 were supplied with jagheers of 5 beeghas each, at a cost to Government of only Rs. 8,307. or Rs. 4. 6. per annum per man. As, in the converse operation of relinquishing jagheers, and insisting upon money payments, Government would have to act on the same valuation, Mr. Halliday would realise but a very small fraction of the amount he estimates.

Chokeydars are bound to report burglaries and thefts; to report passage through

their village of any considerable number of strangers, or their assemblage; to give their utmost care to prevent affrays and breaches of the peace; to apprehend individuals required; and to give their aid to the Police. CHOKEYDAR.

C. 2. S. 3. XXXV. 03.

Chokeydar to have 5 pucka beeghas of good land, as jagheer.

S. B. No. I. 149. No. IV. 264.

The crops grown on such jagheers liable to sale in satisfaction of decree of Court.

Con. 1212. April 19, '39.

Chokeydars one cos from Thannah, to report daily; from 1 to 3 cos, twice a week; and all others once a week or fortnight, as Darogah may direct.

C. 3. 4. S. 21. XX. 17.

By C. 6. S. 11. XIV. 07. and C. 9. S. 21. XX. 17. "*private* watchmen entertained by individuals for guarding their houses, shops, or other premises," within towns where Police are stationed, are subject to the orders of the Police Officers, and required to act in concert with them. C. 6. S. 11. XIV. 07. being declared by C. 4. S. 12. applicable to all *private* watchmen, it follows that private watchmen of whatever denomination, and by whomsoever entertained are "required by the Regns. to assist the Police in preventing robbery and other crimes, and in apprehending offenders," and that being thus in the same category with the Chokeydars and others described in S. 4. III. 05. they come within the intent and meaning of the rule contained in C. 2. S. 2. XII. 18. and are subject to commitment for being accomplices in burglary.

C. 5. March 31, '47.

Village watchmen shall apprehend and send to the Thannah any person who may be taken in the act of committing any heinous offence; proclaimed offenders, and persons against whom a hue and cry shall have been raised of having been concerned in a recent criminal offence. It is their special duty to convey to Thannah immediate intelligence of any robbers who may have concealed themselves in their villages, or in the adjacent country, and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves. They shall also convey early intimation to the Thannah of all murders, robberies, burglaries, thefts, violent affrays, and other heinous offences perpetrated in their villages.

C. 5. S. 21. XX. 17.

Chokeydaree Tax, in cities, the residence of M. and J. M.

Chokeydars to receive from 2 to 3 Rs. a month. S. 4. XXII. 16. Number to be determined at discretion of M. S. 5. Aggregate collections not to exceed the average of 2 annas per house, to be collected from proprietor, if present; or from the principal occupier of the house, if owner be absent. S. 6. Certain poor, or small mohullahs may be exempted. S. 7. Five respectable inhabitants to be nominated by M. as Punchait of each Mohullah, to fix and annually revise the rates of assessment, and appoint chokeydars, subject to approval of M.

S. 9.

CHOKEYDAR.

CHOKEYDAR. The M. to revise, amend, and finally adjust, the rates proposed by Punchait.

S. 11.

M. may receive on *un*stampt paper, petitions objecting to the assessment, the party to be put on his oath, and such enquiry made as may be necessary.

S. 12. XXII. 16. S. 6. III. 21.

A Bukshee to be selected by M. S. 15. Who shall keep the registers, and collect the tax with the assistance of the chokeydars.

S. 16.

Bukshee immediately to deposit collections in the treasury; and on the last day of each month all the chokeydars shall be paid in presence of M.

C. 7. S. 16.

On receiving Bukshee's monthly list of defaulters, M. will issue summons against them, on the reverse of the list, requiring their immediate appearance at cutcherry. If arrear proves to be due, M. will issue order to Bukshee to levy it by distress and sale of personal property of defaulter. Such orders final.

S. 17.

Police Darogah to assist Bukshee.

S. 18.

Bukshee convicted by M. of undue exaction, malversation, or other misconduct; to be dismissed; 6 months in criminal Jail; to refund money exacted, or goods illegally distrained, or in default to be further imprisoned until the amount be paid, provided the total imprisonment does not exceed 1 year. In aggravated cases, Bukshee to be committed to Sessions.

S. 19.

False complaint against Bukshee, 50 Rs. or 6 months, under S. 5. VII. 11.

S. 20. XXII. 16.

Any one appointed to Punchait declining without sufficient grounds to undertake the office, or find a substitute, 50 Rs. fine, to be levied by distress.

S. 21.

Tax Chokeydars not removable without sanction of M. On proof of neglect, or misconduct, to be dismissed, and are "further punishable as the law directs." Quere, How?

S. 27. XXII. 16.

A portion of the Tax may be appropriated to cleansing and repairing the town.

S. 1. XV. 37.

2 Rs. a month may be assessed on an individual.

S. 2. XV. 37.

CHOKEYDAR.—CHOWDREE.—CHUPPRASS.

No European, or any other person, exempted. **CHOKEYDAR.**

S. 3. XV. 37.

Fines on Chokeydars, to be credited to Chokeydarree Tax Fund.

G. G. in C. June 22, '38.

The assessment of a village for the maintenance of Chokeydars, is illegal.

Con. 655. Augt. 26, '31.

Repeated complaints having reached the G. G. of exactions practised in the introduction of the Chokeydarree Tax, it is *not* to be levied except at the sudder stations, and in the mode prescribed by XXII. 16; unless such establishments shall have been introduced and maintained in other towns, with the free will and consent of the inhabitants, the withdrawal of which might endanger the security of their property.

C. 87. July 22, '31.

Chokeydarree Assessment *not* to be introduced into any town, without the previously obtained sanction of Government, under pain of serious displeasure.

L. G. N. W. P. Decr. 16, '41.

Rules for enabling the Inhabitants of any Town to make better provision for purposes connected with public health and convenience.

1, 2. On application of ⅔ds of householders, Government may establish a Committee.

3. Such Committee may levy assessments not exceeding 5 per cent. yearly rent of premises. Members only personally liable for misapplication of money, not for contracts.

4. Government can give orders, and remove members.

5. Accounts to be rendered on April 30th.

6. On application of Committee, M to levy rate from defaulters as under II. 39. (See "Fines.")

7. All property found on premises, liable to be seized and sold for rate.

Act X. 42.

CHOWDREE.—Con. 816. Aug. 23, '33. by which M. was allowed to interfere in the appointment and removal of Chowdrees of the various trades and professions, cancelled; and M. is prohibited from any interference with the election, or removal of any Chowdree. **CHOWDREE.**

C. 163. May 6, '44.

CHUPPRASS—may be worn by private servants; but no person shall wear, or be accessary to wearing any chupprass intended to resemble Government chupprasses. Every chupprass to bear the name of the party by whom the wearer is employed, under penalty of fine and imprisonment, as for a misdemeanor. **CHUPPRASS.**

XVIII. 35.

COIN.—COINING.

COIN.

COIN.—See " Treasury, No. 16. Pice, No. 19, Rupees." Old Standard Rupees full weight, till the loss equals 6 annas per cent.

New Do.————Do.————Do.————2 pie in the rupee, or 1. 0. 0. 8 pie per cent.

Copper Coin is only receivable in payment of fractional parts of a rupee ; the same for payments, unless by request.

A. R. D. Nos. 429. March 10, '32. and 435. August 24, '32.

Spurious copper coin admitted into a treasury, to be at personal risk of the Treasurer. A. R. D. 445. Jany. 4, '33. The same for Postmasters, &c. by Para. 3. A. R. D. Septr. 28, '33. sent with No. 481. March 31, '34.

No pice but of Government coinage can be received into a Government office.

Supt. of Resources. No. 174. March 1, '33.

Tirsoolee Pice no longer a legal tender.

G. O. June 26, '44.

Care to be taken that the silver received in Postage, Stamps, &c. &c., is really paid into the Treasury.

Pies to be used in accounts, instead of gundahs and cowries.

A. R. D. March 7, '34.

Fractional parts of pies *not* to be exhibited in accounts.

Acct. May 30, '44.

Magte. has no power to interfere to regulate the exchange of copper for silver.

Con. 751. Jany. 4. '33.

Magte. cannot punish muhajuns, or shroffs, for demanding illegal batta on Compy.'s Rupees.

Con. 1156. June 29, '38.

COUNTERFEIT COIN, OR STAMPS.—Person having in his possession, without good and sufficient cause, to pay fine equal to 4 times the nominal value of such coin, or stamps, and in default to be imprisoned 6 months. The Coins to be forwarded to Mint Master, Stamps to Superintendents of Stamps.

Half the fine, if paid, to be given to the Informer.

S. 11. XVII. 17.

This Section would be applicable for punishment of party selling counterfeit coins knowing them to be counterfeit, for bullion ; but Selling counterfeit bullion does not come under C. 1. S. 10. XVII. 17. though it is unquestionably a fraud, and punishable as such under the general regulations.

Con. 464. Novr. 30, '27.

COINING.

COINING.—(see " Forgery,") to be committed to Sessions.

S. 9. 10. XVII. 17.

S. J. shall sentence to Tusheer, 30 bents, and banishment for 7 years; or for 14 years in cases of forgery of Govt. coin, public stamps, securities or bank notes. Should he consider this too severe, he may mitigate the sentence to imprisonment, with or without Tusheer, for any period not less than 7 years in the latter class of cases; and to not less than 3 years, with, or without Tusheer, in all other cases under II. 07. and this regulation. COINING.

C. 2. S. 9. XVII. 17.

If further mitigation appear necessary, S. J. shall pass sentence according to C. 2. and refer the trial, with his sentiments at large, for the final orders of N. A.

C. 3. S. 9.

Police Darogah may, on credible information, search the houses of persons accused of coining, and shall transmit to M. the coins and implements, with the offender.

S. 17. XX. 17.

COLLECTOR.—See I. "Accounts." COLLECTOR.

II. "Land Revenue," collection of, by—

1. Dustuks.
2. Imprisonment.
3. Distraint.
4. Kham Tuhseel.
5. Transfer to Putteedar of defaulting Puttee.
6. Farm to stranger of the defaulting Puttee, or of the whole Mehal.
7. Sale of defaulting Puttee, or whole Mehal. See also "Sale."

III.—"Abkarree."
IV.—"Stamps."
V.—"Records."
VI.—"Partitions."
VII.—"Kharij dakhil."
VIII.—"Alluvion and Diluvion."
IX.—"Grants."
X.—"Treasury," (Bills, Notes, Remittances, Rupees, &c. &c.) "Accounts."
XI.—"Pensions."
XII.—"Jummah." "Remission of Revenue."
XIII.—"Summary Suits." *Landlord against Tenant for Rent, by*

1.—Distraint.
2.—Summary Suit.

Tenant against Landlord, for,

3.—Exaction.
4.—Ouster.

COLLECTOR. MISCELLANEOUS RULES.

XIV.—"Putwarree."
XV.—"Execution of orders of Civil Court." "Sale."
XVI.—"Appeals."
XVII.—"Deputy Collector."
XVIII.—"Suits of Government."
XIX.—"Statements."
XX.—"Officers of Collector's Establishment."

Miscellaneous Rules regarding COLLECTOR, not coming peculiarly under any of the above headings.

It is the object of Govt. that the Collr. and Magistrate should retain in his own hands the general superintendence and conduct of every department of his office, and should prescribe the principles on which his subordinates are to conduct their duties, in the same way as it is the duty of the Commissioners to lay down the general rules and principles for the Collr.'s guidance. (A long letter.)

Augt. 25, '35.

The duty of Collr. towards his subordinates is most important. He is responsible for all they do, but he is bound to find them full employment, and in such a manner as to give them complete instruction in *all* branches of their duty, and at the same time, to maintain an effective control over them. He should develope the characters of his subordinates, and form them into valuable officers of Govt. The Collr. who is jealous of his subordinates, and endeavours to keep every thing in his own hands, is unjust towards those whose interests he ought to promote; whilst he needlessly harasses himself, and leaves the work ill done, and the people consequently injured. A *little* time spent in laying out the work, and in explaining the principles on which it is to be conducted, will benefit his subordinates, and leave him at leisure to give his attention to really important matters. The Collr. should endeavour to throw off upon others, all that they can be made to do for him, and should restrict himself to the duty of distributing the work, and carefully controlling and supervising the operations of his subordinates.

Directions. 10, 20.

No assistant should be trusted to try a case, till he has acquired a sufficient knowledge of official language and routine from preparing translations, abstracts, and English reports. These may be so contrived as to save time to Collr. whilst they afford instruction to Assistant.

Directions. 12.

Instead of merely making over files of particular classes of cases, it is far better to divide the work of the office according to Tuhseeldarrees, and to make over one, or more, with all its suits of whatever sort, classified under their proper heads, to the Deputy, or Assistant, who will learn to take an interest and pride in the welfare and good management of his charge, and exert himself both to acquire complete acquaintance with all that concerns it, and also to prevent the occurrence of any thing wrong. He will also acquire a complete knowledge of every part of his duty, and be competent to assume charge of an entire district when it may be entrusted to him.

Directions. 13, 14.

COLLECTOR.

An Assistant must not, of course, be put in complete charge of a portion of the district at once, but be gradually introduced to the charge under the eye of the Collr. In cases where he is not competent to give final orders, he may be directed to try particular issues, or to complete the investigation of some cases, and to send up the papers, with his opinion, for the final orders of his superior.

Directions. 15.

The efficiency of a Collr.'s administration of his duties will greatly depend on the manner in which he conducts himself towards his native subordinates. Difference of religion, and of social system, necessarily separates him greatly from them, and prevents his forming that accurate estimate of character which is only to be acquired in private intercourse. Conscious of this disadvantage, he should strive to remedy it by giving them the freest access to him in all official matters, and by labouring to inspire them with confidence in the soundness of his judgment, and rectitude of his purpose. Excessive suspicion of native subordinates is as fatal as excessive confidence. They are necessarily the executioners of his orders; they must be in a great measure the exponents of his will; and should be to some degree his confidential advisers in cases of difficulty. A person who is extremely suspicious of advice, may be as much shackled in his power of independent action, as the man who weakly assents to whatever is proposed. The safest plan is to consult those who are best able to give advice, and to weigh their opinions impartially.

Every effort should also be used to render the performance of their duties as little as possible burdensome to them. The officer who keeps them long in attendance at his house, or who requires them to perform their ordinary duties in Court in a painful standing posture, cannot derive from them that degree of assistance which would otherwise be rendered. He should so dispose his own time, and make his official arrangements, as may conduce to their comfort, and make their work light.

The practice of frequently imposing fines for trivial offences, cannot be too strongly deprecated. It affords an excuse for dishonesty, and from that cause often fails to have any effect. Errors of judgment should never be so punished; and corrupt, or dishonest, actions deserve a very different punishment. In cases of neglect, or disobedience of orders, the imposition of a fine may be salutary; but it should be moderate in amount, and the offence should be undoubted. Generally the first transgression of the kind can more appropriately be noticed by recorded reproof and warning.

Directions. 23.

Nothing can pass in the district of which it is not the duty of the Collector to keep himself informed, and to watch the operation. The vicissitudes of trade, the state of the currency, the administration of Civil Justice, the progress of public works, must all affect most materially the interests of the classes of whom he is the constituted guardian. Officious interference in matters beyond his immediate control must be avoided; but temperate and intelligent remonstrance against any thing which he sees to be wrong, is one of his most important duties.

Directions. 27.

The Collr. in the N. W. P. having magisterial powers, has great influence and power for beneficial exertion. He should see that complete security of life and pro-

COLLECTOR. MISCELLANEOUS RULES.

perty exist throughout the district; that all lawless violence is repressed, *and so repressed as* least to interfere with the comfort and welfare of the peaceful and well disposed.

Directions. 26.

Collector should cultivate frequent and unreserved intercourse with all classes of the community, and be constantly moving about in his district, in the cold weather, to acquire a knowledge of the country and people.

Directions. 25.

Power of Collr. to complete and correct SETTLEMENT RECORDS, see "Records."

Power of Collr. as Local Agent, see "Nuzool."

Collr. is not competent to issue orders direct to Police darogah, except in very urgent cases, when copy of his order should be sent to M. In ordinary cases, Collr. should notify to Darogah any cause of apprehension, and the Darogah shall be responsible for preventing a breach of the peace.

Con. 1618. July 15, '36.

Collr. cannot be fined for disobeying M.

Con 364. April 23, '24.

No case can be tried by Revenue officer, in which the cause of action may have arisen more than one year previous to complaint.

Con. 1128. Feby. 5, '38.

Collr. may make trifling repairs to Treasure Tumbrils. When heavy ones are necessary, tumbrils should be sent to nearest magazine. See "Treasury, No. 17."

S. B. No. 3. Jany. 16, '35.

Govt. can give special powers under VII. 22. to Collr. though Settlement is not going on; and IX. 33. being applicable, Collr. is competent to adjudge Boundary disputes. Con. 1369. Jany. 27, '43. They are now made entirely over to Collr. by I. 47.

Collr. is not to make over any of his omlah to be tried by himself as M., without first obtaining sanction of Commr., who can decide whether the case should be tried by M., J. M., or be transferred to another district.

Directions. 17. S. B. and G. O. Octr. 1, '44.

Fee of 50 Rs to be paid to Chaplain for permission to erect a Mural Tablet in any Church. Of this, the Chaplain will retain ¼th for charitable purposes under instructions of Bishop; the other ¾ths will be paid to Collr. to meet the cost of repairs and establishment, and credited under "Church," subordinate to "Charges General," indicating in the credit entry the Chaplain and Church.

Acct. May 9, '49. G. O. March 24, '49.

COMMISSION.—COMMISSIONER.

COMMISSION.

COMMISSION of 10 per cent. on all stolen property recovered by them, to be paid to Police officers. If necessary, a part of the property may be sold to make good the commission.

C. 17. S. 16. XX. 17.

Commission of an *Ameen making Partition*, to be fixed by S. B. in supercession of S. 15. XIX. 14. and to be levied as an arrear of Revenue.

XI. 38.

Commission of Sale Commissioner, not to exceed 10 per cent. on the amount of Sale proceeds.

S. 2. I. 39.

COMMISSIONER.

COMMISSIONER of Revenue and Circuit not competent to issue orders direct to Jail officers regarding the management of Jail.

Con. 746. Decr. 28, '32.

He may interfere, however, in peculiarly urgent cases.

Con. 909. Octr. 17, '34.

Commr. is competent under S. 6. S. B. IV. to authorize Collrs. to disburse sums not exceeding Rs. 500, for buildings and repairs, as well as all other items of contingent charge, not being monthly recurring charges for rent or establishment.

S. B. Augt. 18, '46.

Matters of Form, Reports which must come before the S. B. for orders, and cases reported, not to be included in Commr.'s *Indexes*.

S. B. April 14, '48.

Commissioner going to Europe, see " Furlough."

Commissioner for sale of property distrained for Rent, to be appointed by Collr. under I. 39. in each purgunnah; to receive not more than 10 per cent. on sale proceeds.

S. 2. I. 39.

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COMMISSIONER.

COMMITMENT.

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I.—*Cases Committable.*

CASES COMMITTABLE.

Magt. is not to consider the mere circumstance of a bone fracture to take a case of Assault out of his cognizance, it being left to him to determine with reference to the extent of the injury, and other considerations, what cases of this description should be disposed of by himself, and what made over to C. C.

It will *not* be competent to S. J. to cancel a commitment made under this discretionary power, merely on the ground of the S. J. differing from M. in regard to the tribunal before which the case should be brought.

In supercession of Cons. 623. 628. by which cases of affray attended with wounding, if the wounds have been inflicted with a sword, have been ruled to be beyond the competence of M. finally to dispose of, henceforth M. is empowered in such cases to commit, or punish, himself, as he judges most expedient, without regard to the instrument of offence, and with reference solely to the nature and extent of the injuries inflicted by the aggressor.

C. 53. June 12, '40.

This rule extended to *Assaults.*

C. 102. Jany. 25, '42.

In cases of severe bodily injury, a commitment should not be made to S. J. until the result of the wounds has been ascertained beyond a doubt; and, should death ensue subsequent to commitment, S. J. may direct M. to commit de novo on a charge of murder.

Con. 558. June 3, '30.

Fraud is a minor offence, distinct from Forgery, and therefore requiring a separate count.

N. A. R. 2. 50.

Conspiracy distinct from Murder. N. A. R. 3. 50., and punishable under Genl. Regns. IX. 07. LIII. 03.

Should a charge made on oath before M. not be established, he is competent to commit the accuser to take his trial for perjury, at the instance of the party accused; and the commitment will not be illegal, though made pending an appeal from M. on

COMMITMENT. CASES COMMITTABLE.

the part of the original accuser. But it is better to postpone the commitment till the appeal is disposed of.

N. A. R. 1. 263.

For commitment of parties in a fatal Duel, it is not requisite that complaint should be made by private prosecutor.

N. A. R. 1. 281.

By S. 6. IV. 23. a S. J. cannot try a case committed by himself as M. A Civil Judge may conduct summary inquiry into cases of embezzlement by ministerial native officers under S. 7. XVIII. 17; but should transmit his proceedings to M. if grounds appear to exist for bringing the accused to trial; and M. will act on his own judgment as to committing or releasing him.

Con. 691. May 11, '32.

In criminal acts, not being forgery, or perjury, or other act for which the civil judges are themselves expressly enjoined to commit for trial, the Judge should make over the case to M. leaving him to commit, or otherwise dispose of the case as he may think proper. In the event of M.'s committing the accused, the S. J. is competent to try him.

Con. 975. Augt. 7, '35.

By Act I. 48. on the occurrence of Forgery in Civil Court, the Judge is to send case to M. for investigation and commitment. P. S. A. can commit for Perjury. Sessions Judge can try person committed for Perjury by himself as Civil Judge; and the term "Civil Court" includes Revenue officers acting judicially. See "Perjury," "Forgery."

The trial of all cases committed and ready for trial previous to the commencement of the vacations, should be completed, though the vacation should commence. Those committed after the commencement of the vacation may be tried after its conclusion.

C. 141. Novr. 22, '33.

PERSONS COMMITTABLE.

II.—*Persons Committable.*

In cases dismissed by M. if within his own competency, his dismissal of the charge is a legal acquittal, and cannot be touched by S. J. In cases beyond his own competency, the N. A. of N. W. P. consider that S. J. can interfere and order M. to commit, though he should exercise this power with caution and discretion. The Calcutta Court, however, consider that under XXXI. 41. the S. J. cannot interfere.

C. 123. Decr. 16, '42.

A wife should not be committed with her husband, without a direct act of interference on her part.

Septr. 9, '36.

"A feme covert is so much favoured in respect of that power and authority which her husband has over her, that she shall not suffer any punishment for committing a bare theft in company with, or by coercion of her husband. But if she commit a theft

of her own voluntary act or by the bare command of her husband; or be guilty of Treason, Murder, or Robbery, in company with, or by coercion of her husband, she is punishable as much as if she were sole."

COMMITMENT. PERSONS COMMITTABLE.

Sec. 9. 11. *Hale's Pleas of the Crown.*

M. not to commit a second time a prisoner already tried and acquitted on the same charge by the S. J.; but this is not to preclude M. from committing persons who may have been before apprehended and discharged by M. from want of evidence, if further evidence is support of the charge should appear to warrant the measure.

Con. 1394. April 25, '45. C. 177. Nov. 13, '16.

Whenever the commitment of any person shall have been necessitated by his implication with others, in offences which M. is not competent to determine, the circumstances shall be stated by M., and S. J. shall refrain from awarding him a greater punishment than M. has authority to impose for offences of the kind, and shall state in his remarks the circumstances under which the sentence has been adjudged.

C. 234. Oct. 30, '46.

III.—*Officers committing and trying.*

OFFICERS COMMITTING and TRYING.

An order of commitment made by a Joint M. residing at the sudder station, without independent jurisdiction, is not liable to be reversed by M. Con. 906. Oct. 10, '34. The M. has nothing to do with his committing to S. J. whenever he thinks proper.

Con. 911. Oct. 17, '34. Con. 151. Sept. 25, '34.

Govt. can appoint Commr. for State Trials. Rules for, V. 41.

Civil Judge can commit only for Perjury and Forgery. In all other cases, (such as filing a petition with fraudulent intent of obtaining money, Con. 925.; or of fraud, Con. 1225.); he should forward proceedings to M., directing Govt. Vukeel to prosecute. M. will exercise his own judgment as to releasing or committing.

Con. 691. May 11, '32. Con. 975. Augt. 7, '35.

It is optional with a Civil Judge to commit, or otherwise, at the desire of S. J. or other officer holding the trial, any party who may appear from the evidence to be implicated in the offence for which a commitment has been made.

Con. 1206. May 24, '39.

Sessions must be held in established Court House.

N. A. R. 6. 33.

S. J. may use Punchait, Assessors, or Jury; in which case Futwah need not be taken; provided that when the crime is one not specifically punishable under the Regns., the case shall be referred to N. A.

C. 1. S. 4. VI. 32. C. 55. July 24, '40.

COMMITMENT. OFFICERS COMMITING and TRYING.

Any person not a Mahomedan, may claim to be tried by Jury, without Futwah. S. 5. VI. 32. Trials involving religious prejudices should be tried without the Mahomedan Law Officer, and by a Jury.

C. 181. Oct. 2, '35.

If S. J. differs from Assessors, he need not refer the case.

Con. 783. April 12, '33.

Case begun with Law Officer, cannot be continued with Assessors.

Con. 835. Nov. 15, '33.

In postponed trial, if old Jurors cannot be re-assembled, new ones may be appointed; but the former evidence should be read over to them.

Con. 828. Oct. 4, '33.

Assessors must hear the whole trial through. The employment of two sets is irregular, even when there are several counts.

N. A. R. 5. 87.

Natives cannot be compelled to act as Assessors.

C. 127. Nov. 16, '32.

East Indians may serve.

Con. 1019. July 1, '36.

See "Perjury," "Forgery," "Judge No. 5, Jury."

EVIDENCE.

IV.—*Evidence.*—See "Witnesses," "Judge V. Law Officer."

An oath, or solemn declaration, being indispensable to evidence, no child who has not capacity to be sworn, or to make a declaration, should be examined in a criminal trial at all. But in all such cases, the age, and queries and answers, which have induced the opinion of incapacity, should be recorded in the proceedings. This does not extend to preliminary inquiries before the Police, or to investigations made by M. in cases of a nature and magnitude which it may not be within his competence finally to determine. On such occasions, the examination of young persons may be taken without oath, and placed among the papers of the case, not as evidence in itself, but as a clue to other evidence.

C. 1. Feby. 1, '28.

Thanna Burcundauze not to be present at confession.

C. 73. Augt. 23, '10.

M. to certify, "Taken before me," or "Taken before A. B. sirishtadar, and duly explained in my presence this————," on every deposition in heinous cases, or cases committed.

C. 220. Jany. 27, '37.

COMMITMENT.

M. prohibited from committing solely on the ground of the accusation of confessing prisoners.

C. 156. Nov. 20, '15.

If M. want evidence formerly taken before S. J. he should report fully to S. J. who will determine on the propriety, or otherwise, of complying with his request. In the former case, either by transmitting transcripts of depositions required by M. or by allowing an officer from M.'s Court to attend for the purpose of taking copies.

C. 5. Dec. 8, '37.

M. may commit on the testimony of a single witness, if there be not apparent reason to discredit it; but should endeavour to establish, or disprove it, by every means possible.

C. 48. Feby. 26, '30.

Should S. J believe the single witness sufficient for conviction, but the Futwah acquit him on the ground of one witness being insufficient for conviction, the case should be referred to N. A.

Con. 631. May 6, '31.

Witnesses should be sent to prove before S. J. the death of any person dying in hospital from effect of wounds.

Jany. 20, '35.

In cases of murder, or wounding endangering life, when the body or wound may have been inspected by the Civil Surgeon, (as it should be in all practicable cases,) the deposition of the Surgeon should be invariably taken on oath, instead of merely requiring, as is too frequently the practice, a written report; and it is a general rule that no report, or paper, should be placed on the record in proof of the charge, unless the same be established by evidence. C. 54. July 16, '30. In cases of murder and wounding endangering life, when a commitment to Sessions is probable, the deposition of the Surgeon should be taken in the M.'s Court, on oath, as such deposition duly attested and proved in the manner prescribed by Para. 6. of C. 54. July 16, '30, would be available as evidence on the trial, in the event of the unavoidable absence of the Surgeon.

M. should not resort to the measure of taking the deposition of the Civil Surgeon in the manner above stated, except in cases where his evidence on the trial shall be manifestly necessary.

C. 42. May 1, '40.

Previous to committing, M. should summon and examine every witness whose evidence may be indicated as material to elucidate the case.

C. 54. July 16, '30.

No witnesses shall be summoned unnecessarily before Sessions Court.

C. 304. Jany. 7, '25.

COMMITMENT.

COMMITMENT. EVIDENCE.

A prisoner admitted as evidence should be examined de novo, and not be merely sworn to the truth of the statement made by him as a defendant.

Con. 1137. March 9, '38.

In *Zumeema* cases, the facts must be proved again before the new prisoners. It is not sufficient to proceed entirely on the record of the former trial.

N. A. R. 5. 17.

No material evidence for prosecution can be taken in absence of accused.

Con. 658. Sept. 16, '31. N. A. R 1. 300.

Foujdarree depositions not to be read, till witness has given his Sessions evidence.

C. 6. S. 18. VII. 03.

S. J. cannot decline examining witnesses for defence, but their evidence must be heard, however worthless it may be.

N. A. R. 6. 12.

They can be cross-examined like other witnesses.

C. 2. Feby. 26, '47.

Witnesses for prosecution may be examined for defence.

N. A. R. 2. 37. 4. 228.

If additional evidence for prosecution is taken after close of defence, further defence to be called for.

N. A. R. 1. 245. 2. 481.

But further evidence cannot be taken after closing proceedings, and taking Futwah.

N. A. R. 2. 404.

Nor after Jury have given verdict, without order of N. A. After the completion by S. J. of a trial referred to N. A. further evidence was submitted by M. calculated to change entirely the features of the case in favor of the prisoner. The N. A. held that it was not necessary to quash the trial; but, cancelling the Futwah of the Law Officer of Sessions Court, directed S. J. to proceed in the trial, taking the further evidence, and disposing of the case in the usual manner.

N. A. R. V. 40.

Trial may be postponed twice for want of evidence. S. 17. VII. 03. Judge to write his reasons.

C. 111. April 2, '12. N. A. R. 6. 18.

Not more than two witnesses to a Soorut hal should be sent to Sessions.

C. 19. Feby. 26, '30.

The religious persuasions of witnesses shall not invalidate their testimony; but in cases in which the Mahomedan Law Officer shall deem the evidence *incompetent*, on

the ground of the witness not professing the Mahomedan religion, the S. J. shall require the Law Officer to declare what his Futwah would have been if the witness had been a Mahomedan. S. J. shall refer the case to N. A. for trial and final sentence, stating his opinion on the merits of the case.

COMMITMENT. EVIDENCE.

Secs. 56. 57. IX. 1793.

The same for evidence declared *inadmissible.*

S. 5. XVII. 17. Con. 1045. Sept. 9, '36.

M. in addition to lists of witnesses required by S. 14. IX. 1793, shall furnish S. J. with the original returns of the Nazir. The Nazir, and persons deputed to serve summons on absent witnesses, shall be also in attendance at Sessions to answer interrogatories; and S. J. shall ascertain that all due measures have been taken to cause the attendance of witnesses.

S. 4. IX. 1796.

If the evidence for the prosecution is, in the opinion of S. J. and Assessors, or Law officer, clearly insufficient to convict the prisoner, it is needless to proceed with the defence. If, on the other hand, the witnesses should make any statement which, supposing it to be credited, might tend to inculpate or criminate, the accused person, the trial must be completed in the ordinary way.

Con. 1256. March 10, '40.

Should prosecutor and witnesses not be forthcoming within a reasonable time, the prisoner shall be discharged, though security may be demanded for his future good behaviour.

S. 17. VII. 03. Con. 200. March 29, '15. 256. Augt. 21, '15.

No trial should be postponed beyond 6 months from date of commitment, without special reasons to be submitted for consideration of N. A.

C. 132. Jany. 18, '33.

V.—*Matters of Form and Procedure, Counts and Charges.* (See also V. 9. Papers)

COUNTS and CHARGES.

In cases of Murder, or Wounding, a particular description of the weapon should be given, also Persian translations of confessions, &c. &c. The deposition of the Surgeon should invariably be taken on oath, and no report, or paper, should be placed on the record, or referred to in *proof* of the charge, unless the same be established by evidence The conclusion of the Commitment Roobkarree should contain the precise charge on which the prisoner is committed, which charge should be entered in English and Persian on a separate paper annexed to the Roobkarree, bearing M.'s signature at full length, and the date of commitment. The M. should take care to use the correct Persian word to designate the offence charged; and when there is any doubt as to whether the accused is guilty of a higher or lower grade of an offence of the *same character,* the commitment should be made for the higher grade. Where the acts are distinct, and of a separate character, as where a doubt exists whether a commitment should be made for knowingly receiving plundered property, or for the actual robbery, the prisoner should be committed on *both counts.*

C. 54. July 16, '30.

COMMITMENT.

COMMITMENT. COUNTS and CHARGES.

This Circular, and C. 26. Vol. 3. give detailed rules for procedure.

Where commitments may not be made conformably to this rule, S. J. should cause the commitment to be amended by M. before proceeding to try the prisoner. M. should therefore in *all* cases wherein stolen, or plundered property may have been found in possession of prisoners committed to take their trial for theft, or robbery, insert a *second* count in the commitment, charging them also with the offence of knowingly receiving the plundered, or stolen property.

C. 98. March 23, '32.

If this be not done, and theft or robbery be not proved, the prisoner is entitled to acquittal.

C. July 7, '48.

When theft, or an attempt at theft, is attended with murder, the commitment should be for "Theft with Murder," not Murder with Theft.

C. 2. S. 3. XII. 18.

Commitments should not be made for "Affray with Murder," but for "Affray with Homicide," unless there be any aggravating circumstances rendering it doubtful whether the killing did not amount to "Murder," in which case the commitment should be for "Murder," with second count for "Affray with Homicide."

C. 185. Nov. 27, '35.

M. has discretion to appoint a public prosecutor in cases of murder; and it is *not* imperative upon him to commit both parties in an affray. Where, in the same trial, principals and accomplices are committed, they must be principals and accomplices in the same crime, and committed as such.

Con. 778. April 6, '33.

"Thangeedaree" not to be used for knowingly receiving stolen or plundered property, but "Deedah o danistah geriftun o dashtun mal surka ya mugroota," and it should be added to the charge whether the property illegally possessed was acquired by theft, burglary, dacoity, highway robbery, or thuggee; because under XVIII. 39. and XXIV. 43, the M. of *any* district can commit for receiving property anywhere obtained by dacoity or thuggee; and the commitment may be tried by S. J. without Law Officer, or Assessors; whereas charges of receipt of property from theft, burglary, or highway robbery, can only be tried in the district in which the property was found, and the trial cannot be held without Law Officer, or VI. 32. When S. J. tries a case without Law Officer, or Assessors, he should denote on the face of the record the Regn. or Act under which the trial is held.

C. 215. Sept. 19, '45. C. 217. Nov. 10, '45.

When a prisoner is charged with two or more distinct offences, the record of each trial should be kept separate, and a Futwah taken on each separate case, and not on the whole collectively, and each trial should refer to the one last tried, which should include in its final order all the cases.

N. A. R. V. 2. 149.

COMMITMENT.

COMMITMENT. COUNTS and CHARGES.

The separate paper containing the charges in English and Vernacular, prescribed by Para. 16. C. 54. July 16, '30, is also to be drawn up and signed by any Judge making a Commitment for Perjury brought to light in the course of a Civil proceeding.

C. March 12, '47.

The indictment of "administering *poison*, or *poisonous* drugs with intent, &c. &c." or "administering *intoxicating* drugs with intent, &c. &c." to be used according as C. 291. May 7, '24, which requires that all trials in which prisoners may be convicted of administering *poisonous* drugs with intent to rob, whether death ensue, or not, or C. 64. Sept. 18, '40, which excludes from the intent of C. 291. the administering of substances of a merely intoxicating character, and not of a nature to endanger life, may apply to the case; the dhutoora, or other substance, being adduced in the evidence in support of the charge.

C. 83. March 24, '41.

The proper order of proceedings is, Charge; Reply guilty, or not guilty; Evidence in support of charge; Defence; Evidence for defence.

C. 1. S. 15. VII. 03. C. 19. Vol. 1. C. 193. Jany. 27, '18.

Prisoner charged with Murder, cannot be convicted of Conspiracy.

N. A. R. V. III. 50.

Prisoner under commitment making his escape, should *not*, on reapprehension, be committed on the additional charge of escaping from Jail.

N. A. R. V. VI. 75.

Proceedings of all criminal trials to be written on paper of the same dimensions; a list prepared, and the whole closed by adding an extract from M.'s calendar relating to the case. The papers should be entered in the same order as the proceedings are held.

C. 54. July 16, '30.

In cases of Theft, a description should be entered of any property laid before the Court, said to be part of the stolen property, specifying the number attached to each article, and where, and under what circumstances, it was found.

C. 54. July 16, '30.

Then will follow the prosecutor's deposition, the prisoner's plea of "guilty" or "not guilty" to the charge, and then the evidence on the part of prosecutor, in the course of which any papers on the M.'s proceedings forming part of the proof, such as confessions, inquests, declaration of the dying person, forged documents, and the like, should be transferred to the record of trial, and evidence taken thereto, attested copies being substituted in their stead in M.'s proceedings.

C. 54. July 16, '30. C. 135. Feby. 22, '33.

The prisoner will then be put on his defence, but no questions shall be put to him beyond those necessary to elucidate his meaning, and evidence taken on his behalf; after which the Futwah of the Law Officer, or the verdict of the Assessors, being called for and taken, the Judge will record his opinion, and such sentence, or order, as the case may require.

C. 54. July 16, '30. C. 129. Nov. 19, '32.

COMMITMENT. DEFENDANTS.

2.—*Defendants.*

A prisoner, on being committed, shall be asked if he has any witnesses, and should he name any before the day of trial, they shall be summoned.

S. 32. 33. VI. 03.

When a prisoner is committed, result of any former trial to be mentioned by M. in his final proceeding, and a Kyfeeut by principal native officer filed with the case.

C. 203. April 28, '18.

Prisoners always to be referred to by their names, and not by their numbers in the calendar.

C. 216. Nov. 17, '45.

A prisoner tried and acquitted of one crime, may be again committed by order of the Court for another crime of which he appears guilty. Thus he may be acquitted of murder, but recommitted for having part of the stolen property.

N. A. R. 4. 32.

Prisoner only to be asked guilty, or not guilty, and not to be examined, or previous confession recorded, till after the close of the case for the prosecution.

C. 193. Jany. 27, '18. C. 129. Nov. 19, '32.

Charge to be stated exactly in calling upon prisoner to plead.

C. 135. Feby. 22, '33.

Prisoner cannot be convicted of any part of charge to which he has not been called on to plead.

N. A. R. 5. 162.

Although prisoner pleads guilty, the trial to go on.

Con. 650. July 23, '31.

Prisoner not to be called on for defence, until something has been proved against him which it is necessary he should refute.

N. A. R. 2. 454.

In case not proved, proceedings to be closed at once without taking defence.

Con. 1256. 1267. Oct. 31, '39.

Judge must take defence, if charge is proved. It was declared irregular of S. J. to decline putting prisoner on his defence on account of his youth.

N. A. R. 2. 310.

Prisoner is not to be examined so as to criminate himself.

C. 129. Nov. 19, '32. C. 54. July 16, '30.

COMMITMENT.

S. J. has no right to cross-question a prisoner on trial, after taking his defence, to try and draw answers to convict him; or to cross-question him as to former confession, beyond simple avowal or denial.

N. A. R. II. 185. 7. and 220.

When prisoner has been tried under false name, that name to be given in warrant, with alias real name.

Con. 1034. Augt. 12, '36.

Trial may be completed in regard to some, and postponed as to other prisoners, at S. J.'s discretion.

C. 302. Dec. 17, '24.

Prisoner cannot be convicted of heavier offence, or of one to which he has not pleaded.

N. A. R. 1. 257.—4. 59.—2. 50.—3. 50, 56, 234.—4. 246.—5. 28, 53. 162.

M. is incompetent to punish any of the offenders in a case originally cognizable by him, if the circumstances of aggravation render it necessary for him to commit one or more of the persons implicated in the same offence to S. J.

Con. 622. Jany. 18, '31. 379. April 8, '25. N. A. R. 2. 396.

When so doing, the circumstance should always be noted in the roobakarree of commitment; and the S. J. should be careful that it is so recorded, because, when but for the commitment of his accomplice M. would have sentenced a prisoner, S. J. should refrain from giving a greater punishment than M. could have given. The S. J. should also notice this circumstance in his remarks.

C. 234. Oct. 30, '46.

S. J. and M. to record their opinion of the age of a prisoner whose statement on that point they consider false.

C. 105. Dec. 4, '11.

Any prisoner whose trial may be deemed proper to be held at a station different from that at which he was committed by M. shall be detained in custody until a reference can be made to N. A.; and the authority, when received, shall be inserted in the proceedings.

C. 323. April 6, '27.

Whenever a Christian may be tried by S. J. his parentage and place of birth shall be distinctly stated in the monthly statement, or, if the trial be referred, in the letter of reference.

C. 113. July 27, '32.

Names of prisoners to be spelt correctly; and where several prisoners bearing the same, or similar, names are included in one trial, care should be taken in recording the evidence given by each witness, to specify the name of the father of the person alluded to.

C. 135. Feby. 22, '33.

COMMITMENT. PROSECUTORS.

3.—*Prosecutors.*

S. J. incompetent to receive a compromise of case committed.

C. 187. July 31, '17.

M. may make Govt. Vukeel prosecute murder, though there may be relations.

Con. 778. April 6, '33.

Where party declines to prosecute any criminal charge, M. can direct public prosecution.

Con. 318. July 7, '20.

In cases of Moonsiff charged with corruption, Judge should confine himself to preliminary enquiry, and then direct Govt. Vukeel to prosecute before M.

N. A. R. 5. 151. Con. 1069. Jany. 27, '37.

If prosecutor be absent, S. J. may order M. to appoint one. If both prosecutor and witnesses be absent, J. may either hold Deft. to bail till next sessions, or acquit him.

C. 199. April 20, '18. Cons. 200. March 29, '15. 256. Augt. 21, '16.

Prosecutor may appoint a Vukeel, except where Mahomedan law requires him to attend in person. But Judge can cause all prosecutors, except women of rank, to attend when their vivâ voce evidence is necessary.

If necessary witness cannot be found, trial to be postponed; but if the evidence of the witness appear unnecessary, the trial can be completed without it.

S. 49. IX. 93.

CASES REFERRED.

4.—*Cases referred.*

In referring trials to Sudder, S. J. only to mention, and send transcripts of papers regarding such prisoners only, regarding whom reference is made.

C. 492. May 16, '46.

In referring trials, S. J. should invariably specify the punishment which he considers adequate to the crime proved.

C. 22. May 6, '39.

After completion of a trial, N. A. have admitted further evidence by cancelling Futwah, and directing J. to take new evidence, and a supplementary defence.

N. A. R. 5. 40.

In cases involving capital punishment, trial to be referred within 10 days.

S. 27. VII. 03.

Also name of prisoner's father to be specified.

C. 126. Jany. 27, '14.

COMMITMENT.

COMMITMENT. CASES REFERRED.

In cases referred in consequence of his not concurring in the Futwa for conviction, **S. J.** can admit to bail. S. 7. XIV. 10. Delay in referring inexcusable.

C. 54. July 16, '30, and 135. Feby. 22, '33.

Record of referred cases, see Beaufort, pages 174—176. VII. 03.

Judge must clearly record his opinion as to guilt or innocence. Con. 222. Also measure of punishment recommended, except in cases tried with law officer. C. 22. Septr. 14, '15. 153, 181, Vol. 3. Also reasons for extension, mitigation, or remission of punishment.

S. 6. LIII. 03.

If **N. A.** do not give order on referred case within 6 months, Judge to notice it in his letter accompanying monthly statement.

C. 167. July 3, '16. 175. Oct. 16. '16. 333. Nov. 16, '27.

Futwas may be dispensed with, but such trials to be referred to **N. A.**

I. 10.

Trial not to be postponed more than 6 months, and report made to **N. A.** should special reason exist for again postponing it.

C. 132. Jany. 18, '33.
Para. 45. C. 98. V. 3. rules for S. Judges.

When trials are referred to, or called for by **N. A.** copies of proceedings of **S. J.** and proceedings of **M.** in original if necessary, should be transmitted.

C. 191. Jany. 15, '36. C. 126. Nov. 16, '32.

M. shall be supplied, when necessary, with copies of his proceedings in trials referred to **N. A.**, and the original papers shall be returned to him when received back.

C. 61. Dec. 28, '09. C. 94. July 25, '11.

In the note annexed to the head of letters of reference in Criminal trials, **S. J.** shall state opposite the name of prisoner, the dates of his apprehension and commitment; and under head of "Charge" add the date on which the crime was committed.

C. 148. Aug. 8, '34.

Also whether prisoner is in Jail, or on Bail. C. 147. Nov. 24, '43, and his apparent age.

C. 105. Dec. 4, '11.

All trials must be referred to **N. A.** in which **S. J.** differs from Law officer on any other grounds than those specially provided for in the Regns. N. A. R. III. 230. Under S. 7. XII. 25, supposed inadequacy of punishment is not legitimate ground of reference.

N. A. R V. 4. 227.

In submitting trials to **N. A.** the body of the letter of reference should contain a brief recapitulation of the circumstances stated by the prosecutor, of the evidence

COMMITMENT. CASES REFERRED.

adduced in support of the charge, and of the defence. The letter should conclude by stating the S. J.'s concurrence with, or dissent from, the Futwah or Verdict, together with a distinct expression of the Judge's opinion as to the guilt or innocence of the prisoner, and if the former, of the specific crime established against him.

C. 54. July 16, '30.

S. J. shall carefully note down any contradiction in the testimony of the witnesses, either in their evidence on the trial, or as compared with their former depositions before M., and shall bring to the notice of N. A. any irregularities which may be apparent, either in the proceedings of M. or of the Police Officers.

C. 54. July 16, '30.

In transmitting trials, precedence to be given to capital sentences; and S. J. is authorized to employ ticca Mohurrirs in preparing such cases, when his own Omlah are otherwise too busily employed.

S. 13. IV. 97.

S. J. shall transmit to N. A. as soon as possible after the close of referrible trial, counterpart of the original Record, with English letter stating his opinion on the case. The Record to be authenticated by signature of S. J. and seal of Law Officer, and shall include the whole of the proceedings held before him, with every material paper of whatever denomination, taken by, or so delivered to him, and the Persian translation of all examinations which may have been taken in any other language. Proceedings and papers received from M. shall be also transmitted; but variations in the depositions of witnesses before M. and S. J. shall be carefully noticed in the proceedings of the latter. Confessions before M., the result of any inquest or other evidence on proceedings of M., shall be entered with the necessary proofs on the proceedings of S. J.

S. 2. X. 1799.

In sending records of trials, referred to, or called for, by N. A. a copy of English Calendar shall be filed, and a mark placed opposite the name of every witness included therein, who may have been examined on the trial. The list of papers comprising the record must be correctly prepared, and the depositions shall be correctly and legibly written.

C. 187. Oct. 25, '44.

The names of new witnesses, not named in M.'s calendar, but whom S. J. may have summoned and examined, shall also be entered by S. J. in the copy sent.

C. 230. June 12, '46.

In trials of murder referred to N. A. the S. J. should transmit the result of the inquest held on the body of the deceased; or, if no inquest has been held, he should notice the omission.

C. 17. April 19, '98.

Translation into Persian of cases transmitted to N. A. is unnecessary, with the exception of those cases tried with the assistance of Law Officer, in which S. J. may recommend capital punishment.

C. 94. Oct. 29, '41.

COMMITMENT.

COMMITMENT. CASES REFERRED.

A prisoner having been convicted by S. J. of robbery and administering noxious drugs, was sentenced to 14 years and 39 bents. N. A. considered the crime proved to amount to robbery with attempt to poison, and ruled that in such a case S. J. was not competent to pass any other sentence than that of C. 4. S. 8. XVII. 17., namely, imprisonment or transportation for life. They therefore annulled his sentence; but deeming the punishment awarded sufficient, passed sentence to that effect.

N. A. R. III. 333.

All trials for Burglary, attended with corporal injury endangering life, must be referred to N. A. under C. 4. S. 8. XVII. 17.

N. A. R. IV. 284.

Under C. 2. S. 3. XVI. 25. it is incumbent on S. J. to pass the prescribed sentence on prisoners convicted of robbery by open violence, before reference, even though he should see cause for mitigation.

N. A. R. III. 101.

S. J. ought, under C. 3. S. 4. IX. 31. to pass sentence on those prisoners in whose conviction he may concur with Law Officer, suspending however the execution of it until receipt of the final orders of N. A. in regard to the prisoners whose case he referred because he differed from Futwah of Law Officer acquitting them. A case in which S. J. had not proceeded in this manner was returned, that the omission might be supplied.

N. A. R. IV. 330.

In a trial for Dacoity, attended with Murder, in which the principals have been previously convicted and sentenced by N. A. it is not necessary to refer the second trial, if S. J. deem the prisoners under trial convicted of Privity only.

N. A. R. V. 17.

S. J. having referred a case because the Futwah convicted of culpable homicide, whilst he considered the prisoner guilty of aggravated culpable homicide, this was not considered a difference rendering reference necessary.

N. A. R. V. 63.

Under XVI. 25. the case of a Chokeydar convicted of Dacoity is not necessarily referrible to N. A.

N. A. R. V. 68.

S. J. is bound to pass sentence on a prisoner to whose case S. 7. XII. 25. applies, notwithstanding a prisoner implicated in the same offence had been previouly convicted and sentenced by the N. A.

N. A. R. V. 86.

Conviction of administering intoxicating drugs with a view to rob, is not necessarily referrible to N. A. The provisions of C. 4. S. 8. XVII. 17. are held to be applicable to cases of administering poison.

N. A. R. V. 121.

COMMITMENT.

COMMITMENT. CASES REFERRED.

In a case of culpable homicide in which several prisoners were concerned, S. J. differing from Law Officer as to the guilt of only one prisoner, referred the case against the whole of them. Held that S. J. ought to have passed sentence upon the prisoner convicted by himself, but have withheld execution until receipt of N. A.'s orders on the reference, which ought to have been made only in regard to the single prisoner about whom S. J. and Law Officer differed.

N. A. R. V. 139.

S. J. concurring with Law Officer in convicting a prisoner of wounding with intent to kill, is bound under XII. 29. to pass sentence, leaving it to N. A. to call for the proceedings should they consider the punishment improper.

N. A. R. V. 176.

S. J. need not refer a trial for Sodomy unless he be of opinion that the punishment he is competent to award is insufficient.

N. A. R. II. 238.

STATEMENTS and CORRESPONDENCE.

5.—*Statements and Correspondence.*

When M. commits a man who has been previously apprehended on any charge, a kyfeeut of the Sirishtadar to be filed, stating the date, ground, and result of the former apprehension.

C. 203. April 28, '18.

Copies of Futwahs to be sent to N. A. with Memos.

C. 263. Aug. 16, '22. 283. Jan. 23, '24.
C. 78. Feb. 4, '31. C. 25. Vol. 3. On Foolscap. C. 50. Vol. 3.

Authority for holding trial out of ordinary course, to be always recorded with original documents.

C. 54. July 16, '30.

A Futwah can be taken without attendance of Law Officer.

C. 181. Vol. 2.

Futwahs,—rules regarding,—see Beaufort, page 135. LIII. 03.

When commitment is made by order of Commr. or S. J. it should be noticed in the proceedings.

In cases of personal injury, a particular description of the *Weapon* should be recorded, as to length, form, thickness, weight, &c. &c. so as to fix the intent of the prisoner.

C. 54. July 16, '30.

In cases of Theft, a description should be entered of stolen property, with the number attached to each article, and where and how it was found.

C. 54. July 16, '30.

Every article should be carefully numbered, and M.'s and S. J.'s numbers and descriptions to agree with Darogah's.

C. 276. May 16, '23.

Whenever M. commits, he should inform S. J. by English letter; and the S. J. will appoint the day of trial. M. should also send to S. J. a roobkarree specifying the precise charge on which the prisoners have been committed.

C. 109. June 22, '32. C. 190. Jany. 15, '36. C. 98. June 29, '42.

If M. disobeys S. J. the latter can note it in remarks of statement, or in separate letter to N. A.

S. 9. VII. 31.

S. J. to notice all irregularities of M., or of Police, to N. A.

C. 54. July 16, '30.

VI.—*British Subjects.*—See "British Subjects, European."

VII.—*Alteration and Cancelment.*

S. J. competent to cancel commitment; but this should be done with great caution, reporting to N. A.—By C. 2. S. 3. VI. 18. he cannot annul commitment, so as to prevent trial altogether. But the N. A. can by Con. 290.

C. 111. July 20, '32.

S. J. cannot quash commitment, merely because the evidence in the calendar appears insufficient. He must try and acquit.

Con. 1030. S. 3. VI. 18. Con. 1122. Dec. 29, '37. N. A. R. 5. 116.

S. J. may, however quash a commitment, if on the face of it the crime be cognizable by M. and no special reason be assigned for the commitment.

C. July 7, '48.

M. cannot quash his own commitment.

Con. 857. Jany. 24, '34.

On first taking up case for trial, S. J. should carefully compare charge with roobkarree of commitment, and with reference to C. 54. Vol. 2. have errors corrected and omissions supplied. The commitment should be amended before proceeding to trial.

C. 135, 98. V. 2. Con. 857.

S. J. should state the heading under which the amended commitment should be placed.

C. 98. V. 3.

COMMITMENT.

COMMITMENT. These two rules differ from the two following given by Mr. Skipwith, Nos. 254 and 255. "S. J. is incompetent to direct M. to correct his calendar when such correction would lead to a change in the character of the offence; but he may direct M. to supply any mere irregularity in respect of an indictment. Should a prisoner be acquitted of any particular charge by S. J. it will be competent to M. to recommit him on an altered charge."

C. July 7, '48.

Charge cannot be amended after prisoner has pleaded.

N. A. R. V. 6, 7.

Since XXXI. 41. Judge cannot alter the commitment to the prejudice of the prisoner; but can annul commitment, and direct M. to recommit on a *minor* charge. The Agra N. A. however, think that the Judge can order recommitment on a higher as well as on a lower charge. Index to Con. p. 22. note 12. Letter of N. A. Nov. 3, '43, in Appendix to Cheap's Edition of C. O.

If M. commits a case within his own competency to decide, S. J. should try it, reporting M.'s conduct to N. A. So in doubtful cases, where M. has not given special grounds for commitment, S. J. should call on him to supply the omission, and even though the ground given be insufficient, decide the case, recording a caution to M. for the future, and not exceeding the punishment which M. could have given.

Con. 301. Jany. 28, '19. 391. June 10, '25.

It has happened, however, that judges have annulled such commitments, directing M. to try the case himself.

Con. 782. April 12, '33. 501. April 16, '29.

If proceedings of M. be bad, and require particular notice, copy of roobkarree on foolscap to be sent to N. A.

C. 24. May 8, '29. C. 36. Jany. 10, '40. C. 50. June 5, '40. C. 57. Aug. 14, '40.

VIII.—*Acquittal and Conviction.*

Commitment of M. in all cases of acquittal, to be reported on by S. J. as to whether it was erroneous or defective.

C. 24. May 8, '29.

S. J. will not communicate with the committing officer, but leave N. A. to give their own orders.

C. 168. May 22, '35.

A sentence of conviction or acquittal, must be passed upon every person committed for trial.

N. A. R. 5. 145. 173.

Conditional acquittal leaving prisoner liable to a second trial in the event of further evidence being procurable, cannot be passed.

N. A. R. 5. 25.

COMMITMENT.

When prisoner is acquitted at Sessions, M. cannot punish him upon a minor charge connected with that on which he was committed, and which ought to have formed a second count. COMMITMENT.

Con. 362. March 26, '24.

After receiving a Futwah of acquittal in which he coincided, S. J. recommended that an additional witness should be examined against the prisoners. This was declared to be illegal, and the prisoners were forthwith released.

N. A. R. II. 404.

IX.—*Punishments.* See "Judge of Sessions, Punishments."

N. A. will not hang unless body is found and identified. Bones are not enough; as when a prisoner confessed to a Murder and pointed out human bones which he alleged to be those of the person murdered, the N. A. held that as the bones did not admit of identification, this was *not* a sufficient finding of the body to warrant a capital sentence.

N. A. R. V. II. 82.

(In spite of this, I have known a man hung when the corpse was thrown into a river, and could not be found. In another case, a man was executed for child murder, though the child's body was never found. It would be awkward if either of these two supposed murdered individuals turned up again, which is not impossible; as I have known a man voluntarily confess himself guilty of a murder which had never taken place!)

Tusheer can only be given when expressly authorized by the Regns.

Con. 101. June 24, '12. N. A. R. V. 1. 223, 234.

Under Futwah of *Hukoomut-i-udl*, S. J. can give 7 years, or refer if a more severe punishment appear necessary.

S. 6. IV. 22.

The only evidence of a Murder being an alleged village confession, and the body of the missing person not having been found, the N. A. on proof that the missing person was last seen in the prisoner's company, sentenced him to inprisonment for life, until the missing person be found, or his existence, subsequently to his parting with the prisoner, be ascertained.

N. A. R. V. II. 84.

Whenever a Prisoner may be sentenced to imprisonment for life, N. A. shall invariably sentence him to transportation beyond sea for life, unless some special reason shall exist to the contrary, to be recorded.

XIV. 44. X. 47.

By Mahomedan law any individual of a gang of thieves who may be convicted of thefts in which murder has been committed, is punishable for the murder by discretionary punishment extending to death, without proof that he was the actual murderer.

N. A. R. I. 312.

COMPENSATION.

COMPENSATION. *Compensation* for damage done by G. G. in C. to be paid by Acting Deputy Quarter Master General.

G. O. July 19, '38.

Compensation for lands occupied for Military purposes. "No lands are to be permanently occupied by the Military without Govt. sanction. When any lands are required, Executive Engineer to survey them, and furnish map, so prepared as to obviate all doubt as to boundaries, with a statement of the area noted thereon.

"The map, after having been approved by Govt. in the Mily. Depart., shall be forwarded to Collr. to ascertain under 1. 24. what private rights and interests attach to the land, and to arrange for the transfer of it under the instructions of Commr., who shall exercise the powers of C. 2. S. 3. I. 24. and instruct Collr. as to purchase of the land by private bargain, if that mode be adopted.

When the arrangements are completed, he may direct payment, and the transfer of the lands to the Military, reporting the result to Govt. though the Board of Revenue."

G. O. Jany. 30, '29. S. B. IV. Paras. 22 to 26.

For adjustment of compensation due to persons whose crops may have been injured by the temporary encampment of Troops.

See "March of Troops," and S. B. IV. Para. 27. Appendix XXIX.

Compensation for lands taken by Govt. for Roads.—Form of Report.

S. B. IV. Para. 28.

In proposing compensation on account of cultivated lands taken up for Govt. purposes, calculation should be made at the average Jumma rate per acre of the whole cultivated area of the Muhal, with an additional 10 per cent. for loss of profits. (This is not sufficient. It ought to be 30 per cent.) If the land is uncultivated, the Malgoozarree rate should be the basis of calculation. Where these rates are exceeded, the reason should always be given. In these, and in all other instances, in which land is mentioned, the amount should be given in statute acres, and not in beegahs.

S. B. IV. Paras. 29, 30.

Though not so said, these paragraphs must be considered merely a preliminary operation, if the owner of the land chooses to demand arbitration under C. 2. S. 4. I. 24.

S. B. Jany. 19, '49.

When the compensation is fixed by private bargain, an instrument setting forth the transaction should be duly prepared and completed; in the event of objection, it must be determined by award of arbitrators, according to law.

Commr. 5th Division, Feby. 1, '49.

When land in mouzahs paying revenue is required for public purposes, whether for cantonments, public buildings, roads, or canals, the annual remuneration due to the proprietors can be best shewn in the form of a deduction from the Jumma. Regn. I. 24. contains the provisions for the compulsory surrender of the property, and Ap-

pendix XXIII. and S. B. IV. 28 29. contain the preliminary orders of the S. B. and the form in which the report is to be made. The rate of compensation mentioned by the Board must be considered as the Collr.'s preliminary offer under I. 24. The proprietor is free to object to it, but seldom is knowing, or brave enough to do so. (*Directions.* 215.) (The offer is quite inadequate, and Govt. ought to be above taking advantage of the ignorance and timidity of its subjects. The Collector's preliminary offer should be a fair and liberal one, with reference to the actual profits from the land, so as to be an equitable compensation, such as would be affirmed by the I. 24. Punchait.)

The Collr. must not suppose that his duty is terminated as soon as the amount of compensation is determined, and the Govt. demand on the Mousah adjusted. When the land thus taken belongs to non-proprietary cultivators, it will be necessary to see that their interests are regarded, and that they are provided with other lands, or receive compensation in some way for the injury they may sustain. If the land has been held as seer by a member of the proprietary community, the loss of the land may materially affect his position amongst his coparceners, and may give rise to questions, which, if not at once set at rest, will disorganize and ruin the whole body of proprietors. Arbitration is the mode in which difficulties of the kind can best be overcome. When Govt., for the public good, interferes with the rights of private property, *every possible care should be taken that no unnecessary injury, or hardship, should be inflicted on the proprietors.*

Directions. 216.

Regulation I. 24.

When land is wanted for public purposes, if there be any hindrance to the purchase by private bargain, the Officer entrusted with the execution of the work, or other Officer directed by Govt. shall erect a flag on the ground, mark out the boundaries, and stick up a notice of the land proposed to be taken, and the purpose for which it is required, and proclaim that all persons having any claim on the land should appear in person, or by mooktar, within not less than 15 days, to state the precise nature of interest claimed, and the terms on which they will dispose of it. The substance of all material information given in after such notification, to be submitted to the G. G. in C., together with a report on the case, and of the estimated value of the premises, and the several interests attaching thereunto.

S. 2. I. 24.

If the parties object to sell, or demand an exorbitant price, the G. G. in C. can order the election of arbitrators to determine the fair value, and the rights of the persons interested. (C. 1. S. 3.) Govt. may delegate this power, (C. 2. S. 3.)

Two respectable arbitrators to be chosen by Govt. Officer, and two by the parties. If there are several parties who cannot agree, each to nominate one arbitrator, from whom two will be chosen by lot. (C. 2. S. 4) The arbitrators to promise solemnly to discharge the duty impartially, and shall sign a declaration to that effect, but shall not be put upon oath. (C. 3. S. 4.) The arbitrators then to appoint an umpire. (C. 4.) A majority of arbitrators to determine the award. If the votes are equal, the decision of the umpire shall be conclusive. (C. 5.) The Govt. officer has the same power over the arbitrators and umpire, that a Court of Judicature has in compelling witnesses to attend and give evidence. (C. 6.) The arbitrators to hold their enquiry

COMPENSATION.

COMPENSATION. under the general superintendence of the Govt. officer (C. 7.) Govt. officer to cause witnesses to attend, and have oath administered.—False deposition before arbitrators to be perjury (C 8.)

In *lakheraj* land, arbitrators to determine in the first instance what is the fair value of the whole property. (C. 1. S. 6.)

In case of dispute between lakherajdar and tenants, or between several lakherajdars, arbitrators will not interfere, but leave the question to be settled by the Civil Courts, unless the parties write an agreement to abide by the arbitrators' adjustment. (C. 2. S. 6.)

In *Malgoozarree* lands, the arbitrators will determine first, the net rent derived by the Malgoozars; 2nd, the value of any other property, or interest, which the Malgoozar may have in the land; 3rd., the value of any property, or interest, which other parties may possess in it. They will also state the value of the net rent; and the G. G. in Council will determine how much should be made good in the shape of remission of revenue, and how much commuted for a payment in ready money, at the valuation assumed by the arbitrators. In estimating the net rent, no deduction is to be made from the gross rental of the Malgoozar on account of the Govt. revenue assessed on his estate; but the value assumed is to be what would constitute a fair remuneration to all parties concerned, supposing the land to be lakheraj, and held free from all burden and encumbrance,—and the arbitrators shall always certify at the foot of their report that this direction has been observed.

C. 3. S. 6.

If parties claiming an interest will not agree to abide by decision of arbitrators, they must go to Civil Court. (C. 4.) If possession is doubtful, money to be invested in Govt. Securities, until one of the claimants obtain decree from Civil Court. No flaw in the title to disturb Govt.'s acquired right; Govt. can also cause proclamation to be made that no claims preferred after a certain date shall be listened to by Civil Court. But this does not affect the liability of a party wrongfully receiving the value from Govt., to make it good to the true owner.

C. 5. S. 6.

Arbitrators, on the close of the enquiry, to deliver to Govt. officer a full award, with a solemn declaration subscribed thereto, that the award is true and impartial. They should also deposit with him the whole of their proceedings. (C. 1. S. 7.) The Govt. officer will transmit the award to Govt., with his own report. (C. 2.) Expenses of witnesses, &c. &c. to be paid by Govt. (C. 5. S. 7.) If after the G. G. in C. has ordered the occupation of the premises, the Govt. Officer be opposed, or impeded in taking possession, he shall apply to M., to whom it is lawful to enforce the surrender of the premises.

C. 4. S. 7.

The above rules are not applicable to the removal of obstructions from the bed, or banks of navigable rivers, which M. can remove summarily as nuisances.

S. 8. I. 24.

Charges for remitting treasure to Military Chests; for crossing troops over rivers; and for crops destroyed by encampment of troops, should *not* be included in Contingent

Bill for Civil Audit; but a separate Bill should be quickly submitted, direct to Military Auditor General for Military Audit, conforming to the rules of Account. 152, Jany. 10, '06. and 287. May 1, '24. *Manual* 43. COMPENSATION.

Payments for land *permanently* taken for Military purposes must be subjected to Civil Audit, but in a separate Bill, according to S. B. IV. Sec. 5. *Manual* 43.

As to compensation for land *temporarily* occupied by Military, Collr. will be guided by Paras. 5, 6, 7. under "land" in S. 9. of Pay and Audit Regns. when compensation is not under the three succeeding paras. made to the sufferers on the spot by the Quarter Master of the force.

Acct. Sept. 21, '43.

COMPROMISE not to be received in cases requiring punishment. COMPROMISE.

S. 8. IX. 07. C. 187. July 31, '17.

The Mahomedan Law admits the right of the ruling Power to punish serious offences for the ends of justice, although the injured person waive his claim.

N. A. R. V. I. 367.

Thannadar cannot admit razeenamah.

C. 3. S. 12. XX. 17.

Notwithstanding compromise, M. can direct public prosecution; (N. A. R. V. 5. 172,) and Civil Court cannot enforce contract of compromise.

Con. 318. July 7, '20.

Compromise is inadmissible in Rape.

N. A. R. 3. 127.

S. J. cannot receive compromise in case committed for trial.

C. 187. July 31, '17.

Futwah to be taken as to what would have been the law had there been no compromise, and punishment given according to the circumstances of the case.

S. 3. IV. 22.

CONFESSION.—See "Pardon." "I hereby certify that this confession of A. B., son of C. D., was made by him, and taken down in writing, and attested by the subscribing witnesses in my presence, on the ——, between the hours of —— and ——; that to the best of my belief, the confession was voluntary, and that no interference, directly or indirectly, on the part of any person likely to influence or intimidate the prisoner, was permitted." CONFESSION.

C. 54. July 16, '30.

Confessions before Mofussil Police to be carefully certified by them. C. 54. July 16, '30. They should be witnessed by three or more, credible persons, who can sign

CONFESSION. their names, and unconnected with thanna; should be taken before them, and then signed and attested, the Police stating at the foot of the confession the date, hour, and place. When confession is taken at night, or at other place than thanna, the reason to be stated. M. on examining witnesses to a confession should be careful to ascertain that they, as well as the party confessing, were fully informed of its contents. To secure this object, the whole confession should be read over before parties and witnesses before it is signed and attested.

C. 89. June 13, '11.

Confessing prisoners to be kept apart from all persons in custody at thanna, and if practicable, be forwarded to M. under charge of a separate guard.

C. 5. S. 19. XX. 17.

Police not to induce confessions by hopes of pardon, or remission of punishment. C. 178. Nov. 13, '16. C. 3. S. 5. XIV. 10. Such a confession worthy of no credit.

N. A. R. 1. 251. 2. 166.

Thaunah officers should be put out of cutcherry whilst confession is made.

C. 73. Aug. 23, '10.

Confession made before M. to be attested by 3 or 4 witnesses who can read and write.

C. 23. July 4, 1800.

It should always be taken down in the language of the person confessing. C. 1. S. 19, XX. 17. C. 242. Jan. 26, '21. with accurate Persian translations.

C. 281. Nov. 26, '23.

When a confession is *sole* evidence, prisoner is entitled to his own extenuating circumstances.

A prisoner cannot be convicted solely upon his own confession, but evidence must be taken to the actual commission of the crime with which he is charged. (See "Commitment, No. X.")

N. A. R. 1. 255. 5. 103.

A confession elicited by cross-examination before M. is inadmissible.

N. A. R. V. IV. 245.

Confession of privity to murder, corroborated by circumstantial evidence, sufficient.

N. A. R. 4. 54.

Vukeels may be required to attest confessions; one dismissed for refusing. Darogah may summon respectable person to attest confessions, reporting refusals to M., who after taking their defence, can subject them to discretionary punishment.

Con. 101. April 23, '12.

The evidence of such witnesses must be taken in the prisoner's presence.

N. A. R. 1. 300.

CONFESSION.

A prisoner admitted as evidence, should be examined de novo, and not be merely sworn to the truth of the statement made by him as defendant.

Con. 1137. March 9, '38.

Confessions of accomplices, as King's evidence, to be taken without oath.

C. 2. S. 3. X. 24. C. 29. July 22, '02.

The necessity for reporting tender of Pardon, and taking evidence of criminal, under C. 3. S. 3. X. 24. removed. M. is authorized to tender pardon in the several cases specified in C. 1. S. 3. X. 24. without reference to any other authority.

S. 7. I. 29.

Affray not being one of those cases, an accomplice cannot be made King's evidence.

Con. 535. Jany 1, '30.

M. will be cautious not to tender pardon to principal offender; and will in no case make the offer to accomplices, or accessaries, without a reasonable prospect of recovering the stolen property, or of apprehending and convicting the principal offenders.

C. 1. S. 4. X. 24.

Unless the prisoner deny *in toto* having made *any* confession, his mofussil, or foujdarree confession or examination adduced in evidence against him, though not proved by the testimony of the subscribing witnesses, should be read and explained to him at the time of taking his defence, and his admission, or denial of the same, entered on the record. If the witnesses are unable to prove the confession, the Judge should call upon the person by whom it was written, and the police officer, M., or other officer before whom it was made, and by whom it is attested, to depose to any circumstances required to be known.

Con. 763. Feby. 22, '33.

S. J. will carefully examine subscribing witnesses, to see that there have been no irregularities of M. or of Police; and will report such to N. A.

C. 73. Aug. 23, '10. C. 54. July 16, '30.

It is irregular to cause mofussil confession of a prisoner to be read over to him at the trial, before the subscribing witnesses have been examined.

N. A. R. 5. 54.

It is irregular in S. J. to examine a prisoner as to his confession made before M. or Police, after recording his denial of the same.

N. A. R. 2. 185.

Though prisoner plead "guilty," trial should still proceed in the ordinary course.

Con. 650. July 22, '31.

General Rules—see Beaufort, Page 90.

CONTEMPT. CONTEMPT.—Any person using menacing gestures, or expressions, or otherwise obstructing justice, in the presence of the M, J. M., or other officer trying criminal cases, or in any superior, or inferior Civil, or Criminal Court.—Fine of 200 Rs. or 1 month; but where no proceedings have been held under this clause in the court where the offence was committed, any party amenable to the Supreme Court may be indicted as for a misdemeanor.

S. 1. XXX. 41. See also S. 22. III. 03. C. 1. S. 6. XII. 25.

Any such obstruction in Revenue Courts; fine of 200 Rs. or 1 month in Civil Jail; the order, as also that of Civil Court, being carried into effect by M. on application to him in the usual mode.

S. 2. XXX. 41.

Con. 1177. rescinded; and as by C. 225. Oct. 17, '42. Act XXX. 41. is the only law under which contempt of Court can now be punished, and *Prevarication* not appearing to be correctly classable as an obstruction to justice under that Act, it cannot now be punished as Contempt of Court. (The more the pity.)

C. 128. Feb. 3, '43.

Contempt can only be committed in open Court.

Con. 649. Jany. 21, '31.

Contempt of Supreme Court. Rules, XXV. 41.
Ditto of Court Martial, and Military Court of Requests, party to be made over to M.

XI. 41. XX. 45.

Person failing to make deposit at public sale, considered guilty of contempt, and punishable by fine of 200 Rs. or one month in Civil Jail.

S. 31. I. 45.

CONTRACTS. CONTRACTS.—Any person who may voluntarily engage to serve as a workman of any description for a stipulated time, or who may contract for the performance of any specific work, and who, without good and sufficient cause, shall wilfully quit the service so engaged for before the expiration of the term agreed upon, or neglect to perform the work contracted for—1 month's imprisonment; and he may also be required to complete his stipulated period of service, or to perform the work contracted for; and any subsequent conviction of wilful neglect to comply with such requisition, punishable with 2 months more.

S. 5. VII. 19. Con. 384. April 29, '23. Con. 1085. April 14, '37.

Contracts for the indefinite supply of hackeries and bullocks *not* cognizable under VII. 19. But a driver of a hackery, his own property, engaging to perform a specific work, and neglecting to perform it, may be prosecuted.

C. 186. Dec. 13, '35. C. 197. May 20, '36.

CONTRACTS.—CONTUMACY.—CONVICTS.—COOLIES.—COPIES.

Beoparees in the service of Government cannot sue for hire of their carts and bullocks under VII. 19., but must be referred to Civil Court. (Why?) CONTRACTS.

Con. 560. June 11, '30.

There must be a stipulated term of service, or a contract for specific work, to render S. 5. VII. 19. applicable; and such cases are cognizable either in the district where the contract was made, or in that in which Defendant resides.

Con. 1329. May 27, '42.

CONTUMACY.—See "Absconding." CONTUMACY.

CONVICTS.—See "Prisoners.". "Jail." "Irons." CONVICTS.

COOLIES.—See "Begars." "March of Troops." "Carts and Carriage." COOLIES.

COPIES, petitions requesting, to state in words the number of documents, with the date of application, immediately after the list of papers. COPIES.

C. 132. May 19, '43.

Copies taken by individuals on plain paper, not to be authenticated or received as evidence.

C. 4. S. 16. XXVI. 14. Con. 408. Decr. 2, '25.

Persons not officers of the Courts, may take copies with the sanction of J. and M. for the use, and at the expense, of individuals.

Con. 407. Novr. 11, '25. S. 6. III. 29.

In Commr.'s and Collr.'s offices, every petitioner is entitled to an authenticated copy of the order passed on his petition; and every party in a case is entitled to an authenticated copy of the final order passed in his case, on the sole condition of his lodging, within the reasonable time of a month, a sufficient quantity of stamp paper on which the copy may be engrossed.

If any person should wish for copies of other papers to which he is not of right entitled, he must apply for them by petition; and copies will be granted, or refused, at the discretion of the deciding officer.

Copy to be exact counterpart of original, with all its erasures and interlineations.

After the fixed time is passed, a party wishing for copy of an order which he has neglected to apply for in proper time, must petition for it on stamp paper, when, if the order is a final one, copy will be given as a matter of course.

All Collectory appeals to be accompanied by copy of the order appealed against.

Sec. 3. S. B. No. III.

Extra people should be employed to transcribe copies at the rate of so many lines per rupee, which should be established, and made known by ishtihar. The person

COPIES. copying will state at the foot of each paper the number of lines copied, and his remuneration.

S. B. July 30, '33.

Copies of extracts from Malgoozaree and Proprietary Registers, may be given by Tuhseeldars. Application must be made on stamp paper. If Tuhseeldar sees cause to reject application, he will state his reasons on the back of the petition, and send it to Collr. for orders.

S. B. Septr. 2, '42.

Tuhseeldar cannot give copies of other miscellaneous papers.

Directions. Note to Para. 144.

Where there is not sufficient support for a copyist, parties may bring their own. A responsible person in the office must be always present to read the paper to the copyist, so as to prevent the possibility of erasure or interpolation, and his signature should be required upon each copy.

S. B. Augt. 20, '47.

NEW RULES.—The Records to be made accessible to the public. 4th.—Any party desirous of inspecting Records, to petition Collr. in the usual mode, stating the object of his enquiry, and giving such particulars as he can of the papers he requires. Collr. will, as a matter of course, grant permission, and refer petitioner to Mohafiz Duftur in the ante-room. That officer will immediately produce the bundle containing the required papers, and entrust them to one of his Assistants, before whom the petitioner will be allowed to make a leisurely examination.

Sec. 5. A fee of 8 annas per hour will be demanded for the services of each Assistant to the Mohafiz Duftur employed in this way.

6th. No stranger will be permitted to enter the ante-room of the Record Office with pen and ink in his possession; but he will be allowed to carry a pencil and paper, (how many natives have pencils? The Assistant had better gain a pice extra by hiring out a pencil; or the 8 annas might be considered to include the pencil as well as the Assist.) to the use of which he will be carefully restricted. Should any party desire to have notes, or unauthenticated copies in ink, he will be at liberty to obtain the services of an Assistant as a copyist, on the payment of the usual fee.

7th. The Collr. should aim as far as possible never to suffer any of the records, whether called for in the ante-room by the Revenue Authorities, or by the Civil Courts, to be out of sight of the Mohafiz Duftur, or of one of his Assistants.

8th. Whenever from the vicinity of Cutcherries it will facilitate the despatch of business, the Collr. should authorize the Civil Courts, or other public authority empowered to call for papers, to address the Mohafiz Duftur direct for any records they may require; in which case the Mohafiz Duftur should without delay forward the required papers under charge of one of his assistants, who, if the Court inspect the Misl on his arrival, will, when the inspection is over, bring it back at once to the office; but if the Court require to retain the Misl for any period longer than that necessary for immediate inspection, the Assistant will leave the Misl with the Court, taking a proper receipt, and a copy of the index of the Misl.

9th. The Fees sanctioned in Regn. XXIII. 03. should be universally levied on the registration of all partitions of estates under XIX. 14. and also of all transfers of property by Sudder Malgoozars, but *not* on successions by inheritance. The registration will take place, and the fees consequently be levied, on information of the transfers, however obtained, whether from the parties themselves, or from the Canoongoes under C. 4. S. 7. IV. 08. or from the records of the office. When the transfers have been effected under orders of the Civil Court, mutation of names in the Register of Sudder Malgoozars will be effected at the same time that the fees are levied. Fees *cannot* be demanded on transfers by others than Sudder Malgoozars, which involve no alteration in the Registers maintained under X. 03. COPIES.

10th. These Fees will form a fund from which will be entertained such number of additional Assistants to the Mohafiz Duftur as may be necessary to give effect to the above arrangements. The Mohafiz Duftur should be allowed to nominate his own assistants for the Collr.'s approval, and should be held responsible for their good behaviour.

11th. If this Fund prove still insufficient, the Board will be prepared to sanction an expenditure equivalent to the amount of stamp duty on the petitions alluded to in Para. 4. of this Circular.

S. B. Feby. 25, '48.

Copies of letters, resolutions, and other orders in English of N. A. not to be given by J., who should refer applicant to that Court.

C. 160. April 19, '44. C. 207. July 22, '45. C. 218. Novr. 17, '45.

Minutes of Judges of N. A. on general questions, not to be considered as public documents, or copies given.

Con. 718. Septr. 21, '32.

Copies of deeds registered, may be given by Registrar.

C. 5. S. 2. XX. 12.

Copies to be written in a fair and legible hand, with proper space between each word and line, and only on one side of the paper.

X. 29.

Copies of decrees and other documents granted to parties on stamp paper, and copies of proceedings sent to other authorities under Judge's orders, may be attested by Head Clerk.

C. 91. Augt. 25, '41.

COPPER COIN.—See "Coin." "Treasury No. 16. Pice." COPPER.

COPYRIGHT. The Copyright in every book, published in the life time of its author, shall endure for the life of author, and 7 years from his death; or if the 7 years expire before the end of 42 years from the publication of the book, the copyright shall COPYRIGHT.

COPYRIGHT. endure for 42 years. The copyright of a book published after the death of its author, shall endure for 42 years. (S. 1.)

Should the proprietor of the copyright of any book, after the death of its author, refuse to republish it, the G. G. in C. may grant a license for its publication. (S. 2.)

Copyright may be duly registered in the Office of the Secretary, Home Depart. (S. 3.)

Any person wilfully making, or causing to be made, a false entry in the Registry Book, or tendering in evidence any paper falsely purporting to be a copy of any entry in the said book; 3 years with, or without hard labour. (S. 4.)

Any person printing any book in which there is a subsisting copyright, without the consent of the proprietor, or having in his possession for sale, or hire, any copy of a work thus printed, shall be liable to civil action, either in the Supreme or Zillah Courts, as the case may be. (S. 7.)

All copies of any book wherein there shall be a copyright duly registered, printed without proprietor's consent, to be deemed the property of such proprietor, who shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention. (S. 12, 13.)

All actions, civil or criminal, for any offence committed against this Act, must be instituted within 12 months of offence.

S. 16. XX. 47.

CORAH. CORAH,—CORPORAL PUNISHMENT.—See "Bents."

CORPSES. CORPSES, in ordinary cases to be made over by Darogah to relations of deceased, and only to be sent in to M. in cases of poisoning, or were the injuries sustained may be of a doubtful nature, requiring the inspection of surgeon; when the Darogah should send them in as quickly as possible.

C. 12. S. 14. XX. 17.

(Corpses are too often sent in by *Begars* seized on the road. This is a great hardship, and involves great delay. I have them always sent in by bearers, who are relieved at the different thannahs on the road, at intervals of 8 or 10 cos, and paid by the thannadars, who note the amount, with time of arrival and despatch, on the back of the chulan. The amount advanced by each thannadar is immediately repaid to him, and the total expense of each corpse included in the Contingent Bill. By this means the bodies are quickly and readily brought in, and much oppression prevented; as the bearers will fight for their due, whilst the begars are too happy to make their escape after carrying the corpse three or four miles for nothing.)

CORRESPONDENCE. Correspondence.—See "Magistrate, Office Routine." "Judge of Sessions, Correspondence."

CORRESPONDENCE between Chaplains and Govt. to pass through Bishop, or Archdeacon.

Notification, June 25, '46.

CORRESPONDENCE.

Letters to be numbered in continued annual series. Separate letters on separate subjects. Short abstract of contents of each letter. Letters to be brief.

C. 184. Novr. 27, '35. C. 72. Novr. 13, '40. C. D. A. 20. July 2, '30.

The Court of Directors, Feby. 10, '30, order "That all functionaries, Civil and Military, should write separate letters upon separate subjects, and annex brief abstracts of their contents. The practice of making abstracts, besides facilitating references, will lead, we hope, to a condensation of the correspondence, which is often most unnecessarily expanded. It should be understood throughout the service, that *the letters which contain the most useful information and pertinent suggestions or instructions within the shortest compass, are the most valuable*, and will be held in highest estimation."

See detailed rules, Sec. 2. S. B. No. III.

Substance of letters quoted to be given in margin, so that every letter may, as far as possible, be intelligible in itself, without reference to others.

C. 150. Vol. 3. S. B. Oct. 27, '43.

Letters transmitting vernacular papers, should always give some intimation of the subject matter.

Commissioner 5. Division, March 30, '48.

Sealing wax prohibited. Gum to be substituted.

G. O. Augt. 17, '42, and Sept. 19, '42.

Native gentlemen to be respectfully addressed.

C. 95. Novr. 19, '41.

References to Advocate General to be submitted through N. A.

C. 133. May 26, '43.

Report to be made to Govt. of delay in repairing public buildings.

C. 253. May 3, '22.

Documents and information obtained officially, not to be communicated to individuals without the previous consent of Govt.

G. O. Augt. 30, '43.

With reference to the above, the G. G. repeats, that it is contrary to the duty of every Officer, Civil or Military, to make public, or to communicate to individuals, without the previous sanction of Govt. any documents, papers, or information, of which he may have become possessed in his official capacity. The making use of official information in carrying on personal controversies, is highly prejudicial to the public interests, and is not only at variance with discipline and obedience, but is a positive breach of faith, inasmuch as no functionary has a right to reveal without due authority, facts and circumstances which may have come to his knowledge in the performance of his duty.

CORRESPONDENCE

If, in the transaction of his official duties, his public conduct be impugned, he is at liberty to seek redress through the usual official channel, from Govt., which will afford him every opportunity of vindicating his honor.

G. O. March 25, '47.

CORRUPTION.

CORRUPTION AND BRIBERY.—Covenanted Civil Servant borrowing money of any subordinate, or the connection of any subordinate; to be dismissed.

S. 2. VII. 23.

Private servant of Civilian receiving any valuable consideration on account of suit in Court. Fine of 3 times sum taken, to be levied by distress; or to be imprisoned for contempt of Court, and not to be employed again.

S. 11. XIII. 93. Con. 539. Feby. 26, '30.

Police officer receiving or demanding, gratuity, to refund amount, be dismissed, and be fined or imprisoned.

C. 3. S. 11. XX. 17. C. 321. Decr. 29, '26. Con. 1134, Feby. 16, '38.

XIII. 93. and XII. 03, in giving option of civil action, do not preclude a criminal prosecution, whenever there may be sufficient grounds for it, to be conducted by Vukeel of Govt.

Cons. 54. Novr. 21, '09, and 58. March 13, '10.

Opium officer taking a present from Opium assamee, to be dismissed, be confined 6 months in Civil Jail, with fine of 200 Rs. or 6 months more.

S. 12. XIII. 16. Con. 76. Jany. 31, '11.

Salt officer, from salt assamee,—To refund money taken; to be fined 500 Rs. for every 100 Rs. taken; and 6 months imprisonment, from M., besides being dismissed by his own superior.

S. 63. X. 19.

Custom-house officer taking bribe, 500 Rs. or imprisonment not exceeding 6 months in civil jail, until fine is paid.

S. 13. XIV. 36.

Law Officer, or ministerial native officer, liable to criminal prosecution for corruption, extortion, or embezzlement; and, on conviction, to 7 years.

C. 2. S. 6. XVIII. 17.

Treasurer advancing money to uncovenanted *Judicial* Officer; both liable to be dismissed.

C. 306. Feby. 10, '44.

S. 4. III. 27. With reference to C. 2. S. 10. XXIII. 14. a charge of corruption against a Moonsiff, is cognizable in the first instance only by the Civil Judge, who,

after the requisite preliminary enquiry, will either give, or refuse, his assent to a criminal prosecution, which should be conducted by complainant before **M.** as any other misdemeanor. This does not bar the right of **J.** to direct Vukeel of Govt. to prefer a charge on the part of Govt. when he deems it necessary for the ends of justice.

S. 26. V. 31. Con. 781, April 12, '33.

European officer charged upon oath with corruption, the deposition to be forwarded through the superior Court to Govt. who can appoint Commrs. to investigate.

XXVI. 39.

Ameen under XIX. 14. convicted of corruption, or gross misdemeanor, if prosecuted by Collr. before **M.**, to pay a fine of 3 times value taken, and be imprisoned for 6 months. He is also liable to action in Civil Court.

S. 13. XIX. 14.

Magte. is competent to pass final sentences of punishment on conviction of corruption, to the extent of the powers vested in him, when such punishment may appear to him adequate to the degree of criminality of the accused. If otherwise, it is necessary to commit to **S. J.**

Con. 237. Feby. 16, '16.

Although thannadars and mohurrirs do not come strictly within the term "ministerial officers" of S. 12. XII. 03, or S. 10. X. 06., yet the same principle is applicable to charges of corruption preferred against them, and **M.** is perfectly competent, whenever he may see reason to suspect any such charge brought against his police officers to be false and unfounded, to call on the person preferring the charge to give security for his attendance until the case is decided.

Con. 731. Novr. 2, '32.

Corruption on the part of ministerial officers of Revenue Depart. is a misdemeanor, punishable under C. 7. S. 2. LIII. 03.

Con. 1002. March 4, '36.

Suit to recover bribe from Collr.'s Serishtadar, to be proceeded in as in common action for debt.

Con. 807. Septr. 6, '33.

Native giving bribe to the Omlah of a public officer for corrupt purposes, is guilty of a misdemeanor, and liable to be prosecuted.

Con. 522. Septr. 4, '29.

Collr. cannot make over any of his Omlah to be tried by himself as **M.** without first obtaining sanction of Commr., who can decide whether the case should be tried by **M.**, J. M., or be transferred to another district.

Directions. 17. S. B. and G. O. Octr. 1, '44.

BENGAL SECRETARIAT LIBRARY

CORRUPTION.—COSTS.—COUTERFEIT COIN.

CORRUPTION.

As the giving a bribe is a criminal act, rending the briber liable to criminal prosecution as well as the receiver, a Court of Justice cannot compel a person to give evidence on oath touching a bribe alleged to have been administered by himself

Con. 757. Feby. 8, '33.

Whenever an action may be brought in the Civil Court against any Native ministerial officer of any Civil or Criminal Court, or any Law Officer, to recover money extorted or corruptly taken; the Court, on proof, shall adjudge him to refund the amount, with interest and costs, but shall not award any fine against defendant.

S. 3. III. 27.

Party plundered by Native Officer need not institute a Civil Suit. Certified copy of the conviction by S. J. or N. A. will be sufficient to enforce the refund on application to the Civil Court on Stamp for miscellaneous Petitions.

S. 5. III. 27.

COSTS.

Costs.—In no case, where Govt. is not one of the parties, can payments of costs be made from the treasury of the Court; they should be levied from the failing party, in like manner as costs in civil suits.

Con. 373. Jany. 21, '25.

Payment of actual costs awarded by M. to be enforced by the attachment and sale of the property of the party against whom they are awarded.

Con. 590. April 8, '31.

Under S. 8. XIV. 97. the criminal courts are authorized to adjudge costs actually incurred upon *any* prosecution before them, by either of the parties thereto, in particular instances wherein they shall consider such reimbursement just and equitable.

Con. 505. May 8, '29.

Civil Courts are not authorized to take cognizance of suits for costs in a complaint dismissed by the criminal Court, as C. 3. S. 29. VII. 03. authorizes the criminal courts to adjudge costs when they consider it just and equitable.

If, however, M. from oversight, omits to order costs to the party whom he may think justly entitled thereto, he can supply the omission by a subsequent order, on the application of the party.

Con. 367. July 2, '24.

Criminal Courts cannot award compensation, or damages, to individuals, in any criminal prosecution, beyond reimbursement of costs actually incurred. The party claiming damages must be referred to the Civil Court.

Con. 931. Jany. 31, '35.

See "Summary Suits."

COUNTERFEIT COIN.

Counterfeit Coin, or Stamps, or Bullion.—See "Coin."

CUSTOMS.

CUSTOMS.—See "Salt."

All Inland Custom, and Transit Duties, abolished; with the exception of the Frontier Line, and Western Salt Duties. Detailed Rates of duty on goods imported and exported by sea.

XIV. 36.

Act XIV. 1843.

Sec. 1st.—Regn. XVI. 29. II. 38. and so much of IX. 10. and of any other Regn. or Act, as affects the Collection of Customs Duties, as the Manufacture of Salt, in the N. W. Provinces, repealed.

2nd.—The following and no other Duties of Customs shall be leviable upon import and export of articles into, and from the N. W. Provinces.

On the Import of *Salt*, of all descriptions, 2 Rupees per Maund, and a further duty of one rupee per Maund (reduced to 12 annas by G. O. June 17, '47, and to 8 annas by ————,) on transmission to the eastward of Allahabad.

On the Import of *Cotton*, 4 annas per maund, uncleaned, 8 annas cleaned.

On the Export of Misree, Kund, Cheenee, and all clayed and refined Sugar, 8 annas per Maund; and 3 annas per Md. on Goor, Ráb, Sheerah, and all unclayed and unrefined saccharine produce.

The Import of Sugar into any port of the said Provinces is prohibited.

3rd.—The Governor may from time to time issue orders, which shall have the force of law.

4th.—The manufacture of Salt prohibited and punishable. (See "Salt.")

5th.—Salt to be seized, and criminals made over to M.

6th.— All Sugar imported, and all articles imported, or exported, without payment of the duties imposed by this Act, or in contravention of future orders, and all boats, carriages, and conveyances, and all animals used in transporting the same, shall be liable to be seized and confiscated.

7th.—All persons evading, or attempting to evade the payment of the duties imposed by this Act, and all persons aiding or abetting such attempts, or in any manner acting in contravention to this Act or future orders, and all Zumeendars and other proprietors of land, or their Agents, who shall wilfully connive at such attempts, or aid such acts, shall on conviction by M. be punished by fine not exceeding Rs. 500, or 6 months with, or without hard labor.

8th.—It shall be lawful for Customs Officers to search any carriages, and conveyances, and any packages, upon reasonable grounds of suspicion that they contain dutiable or prohibited articles, and to detain all such articles as may be liable to confiscation.

9th.—Whenever articles are seized, or detained, the Collr. of Land Revenue, or Customs, to report the case with all practicable expedition for the determination of the Commr. of Revenue, who shall confiscate such articles, or impose such lesser penalty as may seem to him fit.

10th.—Customs Officers can apprehend any person upon reasonable grounds of suspicion, and make him over for trial to M.

11th.—Customs Officer *searching* without reasonable ground of suspicion, shall upon conviction before M. be punished with fine of 250 Rs. or 3 months; the fine to be paid to party aggrieved.

Ditto *apprehending* any person, 500 Rs., or 6 months; the fine being in like manner paid to party aggrieved.

CUSTOMS.

12th.—All persons exercising the powers of M. competent to try all such charges under the ordinary rules of Appeal.

13th.—All Police and Revenue Officers to aid and assist the Customs in carrying out this Act.

14th.—This Act does not apply to the Saugor and Nerbudda Territories, or to Ajmeer.

RULES *for giving effect to the above Act.*

February 10th, 1844.

Sec. I. Rule 1.—The following Lines established.

2.—The N. W. Frontier Line shall commence in the Himalaya (from the territory of Goolab Singh, down the Beas to the Sutlej, down the Sutlej to the Bahawulpoor Frontier, thence by Sirsa, Hissar and Hansee, to the Jumna below Bullubgurh. (Amended rule of G. O. Octr. 28, '46.)

It shall follow the Jumna till it reaches the boundary between the Banda and Allahabad districts, whence it shall run in the direction of the southern frontier of the Allahabad and Mirzapore districts, till it meets the Soane, and there it shall terminate.

3.—Custom House Jurisdiction shall extend for a distance of 15 miles from the line, and from right bank of the Jumna, or over all British Territory within that space; and along the frontier of the Allahabad and Mirzapoor districts for the distance of 15 miles North and East of the frontier; save and except that the cities and marts of Delhi, Bindrabun, Muttra, and Agra, shall be excluded from Customs Jurisdiction, and the breadth of the line be proportionally increased opposite them, so as nowhere to be less than 15 miles.

4.—(This rule cancelled by G. O. Octr. 28, '46.)

5.—Articles brought from South and West within Customs Jurisdiction on these lines, shall, with the exception of Sugar, under Rule 37, be held to be imported. Articles brought from North and East shall be held to be exported.

6.—A line for the levy of a duty on *Salt only*, shall proceed from Allahabad due South to the Rewah frontier, and due North to the Oudh frontier, and thence along the Western and Eastern boundaries of Oudh to the frontier of Nipal. Customs Jurisdiction to be 10 miles wide.

7.—All Salt passing out of the Oudh Territory across this line, shall be held to be imposted, and liable to duty of 2 Rs., and the further duty if passing to Eastward of Allahabad.

8.—The Customs Jurisdiction not to include the Ganges or Jumna, so as in any way to interrupt their free navigation; all Customs interference with the river borne trade being hereby prohibited, further than may be required at Allahabad for the protection of the special further duty on Salt.

Sec. II. Rule 9.—*Open* Chokees to be established on the chief roads. The *closed* Chokees to be entirely of a preventive nature, to stop importation of Sugar, and the passing of dutiable articles, although accompanied by Rowannahs.

10.—List of Open Chokees to be published.

Sec. III. Rule 11.—Custom Houses to be established at Sirsa, Hansee, Delhi, Kurnal, Horul, Agra, forming the 1st or Delhi Division; and at Culpee, Rajapoor, Allahabad, and Mirzapoor, for the 2d or Mirzapoor Division.

12.—Collectors, Deputies and Assistants, appointed.

13.—Patrols, Assistant Patrols Darogahs, Jemidars and Chuprassies. At all *open* Chokees there shall be stationed a Darogah or Jemidar, and a Mohurrir or Weighman.

Sec. IV. 14.—No dutiable articles shall be brought across the line, unless covered by Rowannahs in duplicate, of the form A.

15.—Persons wanting Rowannahs to apply in writing to nearest Custom House, stating name and description of goods, description and quantity of carriage, total weight of goods, rate of duty per maund and total duty, name of applicant, and by what route, or chokee proceeding.

16.—Mooshriffs appointed who, on payment of the duty, shall make out Rowannah, free of all further charge, or fee, whatever. Each Rowannah to bear the signature of the Mooshriff, who shall be answerable for its accuracy, sufficiency, and early delivery.

17.—Rowannahs only current for 3 months, excepting as provided in Sec. V.

18.—Rowannahs of *any* Custom House valid in any Customs Jurisdiction; but Salt passing Allahabad to pay the further duty.

19.—When goods covered by duplicate Rowannah are brought to an open chokee, the Officer, after comparing Rowannah with the goods, and ascertaining that it covers them, shall permit the goods to pass, tearing the Rowannah through the bordered words in the middle, himself retaining the right hand, or duplicate, and delivering the original to the owner.

The goods shall on no account be detained at the chokee more than 24 hours, unless for breach of Customs Rules.

20.—The single original Rowannah, Form A. shall be of no avail to cover dutiable articles before they reach a line of chokees, and when brought to an open chokee, except when the articles are intended to be brought across the Frontier line north of Delhi, after having passed the Hurrianah line, or vice versâ. In this case the single Rowannah shall be considered as proof of payment of duty on the line first crossed. Special Rowannahs must be taken out from the Allahabad Custom House, after payment of the further duty, to cover Salt passing to the eastward of that city.

21.—Duplicates of Rowannahs destroyed, not to be granted but by Collr. of Division on proof of destruction.

22.—Despatch of goods covered by Rowannah can be divided on the owner's obtaining from the nearest Custom House as many partition, or Uttraffee Rowannahs, of the Form B. as he may require, on payment of 2 annas for each.

23.—Persons wishing to export Cotton, or to bring it within half a mile of the line of Chokee, from the North, or East, to obtain from Collr. of Customs a Maaffee Rowannah, or free pass, Form C., for which no fee shall be demanded. It is only current for one month.

24.—Persons wishing to bring Salt within Customs Jurisdiction from North and East, to obtain similar Maaffee Rowannahs for 2 annas each, to be current 15 days, but which shall not cover goods found at a greater distance than 5 miles from the northern or eastern limit of the jurisdiction.

25.—The Maund is that prescribed by VII. 1833, namely, 40 seers of 80 Tolahs, of 180 grains Troy each. The Seer is equal to 2½ lbs. Troy.

Sec. V. Rule 26.—The currency of Rowannahs can be extended for 8 months on application to Collr. or Patrol.

CUSTOMS.

27.—Patrol to ascertain whether the despatch is covered by the Rowannah ; and, on being satisfied, shall endorse it, and note on its back the place of intended deposit, and the period of extension required.

28.—The Rowannah so endorsed shall be sent to Collr., who will superscribe thereon the period for which the Rowannah is extended, and the date on which the superscription will cease to have effect.

29.—The Rowannah thus superscribed, signed and sealed by Collr., and attested by Mooshriff, to be forwarded to applicant.

30.—Rowannah thus extended, will only cover the goods for the period noted in the superscription.

31.—No second extension beyond the full term of 8 months from the date of original issue, to be granted, except on clear grounds of necessity, and with the permission previously obtained of the Collector of the Division.

Sec. VI. Rule 32.—The bringing, or keeping Salt within Customs Jurisdiction uncovered by a Rowannah, shall subject the offenders to all the penalties of the Act.

33.—The bringing of Saccharine produce, Sugar, or cleaned Cotton, uncovered by a Rowannah, within half a mile of the chokees established under Rule 9. shall subject the offenders to all the penalties.

34.—Ditto the attempt to cross dutiable articles even when accompanied by a Rowannah, except by an open chokee.

35.—Uncleaned Cotton may be brought free of duty, and unaccompanied by a Rowannah, to any mart South or West of the line of Chokees, but the attempt to cross the line without a Rowannah, shall subject to all the penalties.

36.—Salt not exceeding 1 seer, and Sugar not exceeding 5 seers, intended for private consumption, exempted. Salt not exceeding 5 seers uncovered by Rowannah, to be confiscated, but the possessor shall not be liable to the penalties of Sec. 7. XIV. 43.

37.—Sugar, the produce of British territory, covered by a certificate of origin, under S. 3. XXXII. 36. if brought across the line from British territory lying on the south and west of the line, shall not be held prohibited.

38.—Articles to agree with Rowannah in all essential particulars, allowing 5 per cent. excess of weight.

39.—From 5 to 15 per cent. excess of weight; or if the discrepancy be evidently the result of accident, or ignorance, and not of fraud, to be punished by Commr. with no greater penalty than that of double duties.

40.—Whenever persons shall have become liable to penalties evidently from inadvertence, or ignorance, and without any attempt at concealment, or fraud, a greater penalty than double duties on the whole despatch shall not be awarded by Commr.

When a Military Officer is desirous of securing a free transit through a Foreign territory for property belonging bonâ fide to himself, or to Govt., he should apply for a pass in the annexed form to the nearest Comdg. Officer.

When a Foreign Native of rank wishes to travel through the British territory with articles liable to duty, he should apply to the British Political Officer for a pass in Oordoo and English, in the annexed form B., a copy of which should be forwarded direct to the Customs Officer within whose jurisdiction the articles will first arrive.

G. O. March 11, '47.

CUSTOMS.

Navigation Laws repealed in India. Duties to be the same on imports and exports, whether on British, or on Foreign bottoms. No duties charged on the coasting trade of the territories of E. I. C.

VI. 48.

In modification of S. 3. VI. 48. the provisions of that Sec. shall not apply to goods exported from any part of the territories of the E. I. C. to the Straits of Malacca, Tenasserim, or Arracan; nor to goods imported from those ports into the said territories.

No drawback shall be allowed on the re-export of goods from any port of E. I. C. to any other port of E. I. C. to which the operation of S. 3. VI. 48. may extend.

VII. 48.

DACOITS.

DACOITS.

DACOITS.—By C. I. S. 3. LIII. 03. it is declared that any persons who shall in the day, or in the night, go forth with any offensive weapon, *or in a gang with or without an offensive weapon*, with the criminal intent of committing *robbery*, and shall, by force or intimidation, *rob* or *attempt to rob* any person or persons, shall be deemed guilty of the "crime of robbery by open violence," or Dacoity; and in C. 4. S. 4. of the same Regulation, the mere act of going forth with a gang for the purpose of committing robbery, is punishable with 7 years.

Con. 750. Jany. 4, '33.

Person going forth with Dacoits, may be called on, in addition to the above, to give substantial security to the satisfaction of S. J. for his future good conduct, before he is released.

S. 9. VIII. 08.

When M. has certain information of a man having been concerned in a Dacoity, or of his being so notorious as to make his apprehension essential to the peace of the district, he shall report case to N. A. with amount of reward he thinks proper. S. 2. IX. 08. N. A. can offer 500 Rs.—S. 3. and 4. IX 08.

Ishtihar to be well tom-tomed at Tuhseeldarrees, &c. &c.

C. 64. Feby. 24, '10.

For subsequent proceedings on capture.

IX. 08. III. 05.

A proclamation as above, cannot be issued against a person inhabiting a foreign country.

Con. 127. July 1, '13.

All proclaimed robbers are tried under IX. 08. as modified by V. 22., that is, they may, according as Supts. of Police, may decide, be tried either for the contumacy, or for the offence for which they were proclaimed. Trial to be referred to N. A.

Con. 435. Novr. 3, '26.

Plundering granary, and resisting police, considered dacoity.

N. A. R. I. 238.

Plundered property found in foreign territory, does not convict person in whose house it may be found, of dacoity.

N. A. R. 3. 149.

M. to keep a bright look out after all reclaimed Buddhicks, who may be employed in his police. If any abscond, to be reported to Assistant Commr.; if necessary to discharge them, they should be made over to that officer for the orders of the Dacoit Commissioner.

G. O. Augt. 11, '45.

Any one proved to have belonged to a gang of dacoits, can be committed by any M., and tried by Court, as if the crime had been committed in the zillah; and be sentenced to transportation.

XXIV. 43.

DACOITS.—DAMAGES.—DEBTS.—DECREES OF COURT.

DACOITS.

Landholder assisting Dacoit ;—Estate forfeited, 6 months and 200 Rs., or 6 months

S. 4. VI. 10.

Dacoity cases may be tried without the aid of Law Officer.

C. 178. Octr. 11, '41.

DAMAGES.

DAMAGES cannot, in any case, under any circumstances, be awarded by criminal court.

Con. 931. Jany. 31, '35.

Punishment for a misdemeanor does not bar a civil action for damages; and those concerned in the act, are jointly and severally liable. (See "Corruption.")

S. D. A. Jany. 6, '30.

Where no illegal detention, or want of care, is proved, a suit for damages on loss of property, dismissed.

S. D. A. April 5, '10.

Damages may be awarded against a Police Darogah for the illegal search of a house in a case of theft.

S. D. A. Augt. 20, '35.

DEBTS.

DEBTS due to deceased *natives*, not recoverable without Judge's certificate. Judge shall issue notice, and grant certificate. Such certificate conclusive. Security may be taken from party to whom certificate is given.

XX. 41.

Action for debt maintainable in Supreme Court against executor.

S. 3. XXVI. 41.

DECREES OF COURT.

DECREES OF COURT.—No decree can be enforced against a third party, not a party thereto.

Con. 744. Decr. 21, '32.

Personal property sold in execution must never be delivered up to the purchaser until he has paid for it; and if the Nazir, or other person entrusted with the sale, deliver it without payment, it will be at his own risk. He will be compelled to make good the price, and must recover it from the purchaser by course of law.

Con. 787. May 3, '33.

Mortgaged property can be sold in execution of a decree, reserving the rights and interests of the mortgagee.

Con. 856. Jany. 24, '34.

DECREES OF COURT.

Rights and interests of a Jotedar Ryot may be sold in satisfaction of decree.
Con. 890. July 11, '34. (Lower Provinces.)

Salary of Military officer cannot be attached in execution of decree.
Con. 902. Septr. 26, '34.

The pay of a sepoy cannot be attached in liquidation of a decree against him; but the decreeholder is at liberty to proceed against the person or property of the sepoy, as in any other case.
Con. 1175. Augt. 31, '38.

A Sepoy Remittance bill, being regarded as a portion of his pay, is similarly exempted.
S. D. A. Augt. 20, '49.

The salaries of Public Officers, (not Military men) may be attached in execution of decrees, but not Govt. pensions.
S. 2. XII. 14. Con. 827. Septr. 6, '33. Con. 902. Septr. 26, '34.

Decrees to be written originally by Judge in his vernacular language, and afterwards translated into the language of the Court.
XII. 43.

A Decree for landed property must specify in detail the property of which it awards possession, without reference to other documents. S. D. A. July 3, '41. The boundaries must be ascertained before judgment is entered.
S. D. A. Augt. 11, '47.

No defaulter can be committed to jail, until the deposit for subsistence is made.
Con. 575. Septr. 24, '30.

Instructions on the difficulty experienced by decree-holders in obtaining possession of houses and patches of land. They should have recourse to the protection of S. 5. II. 06. which empowers the Judge to call for security, or cause land to be attached. This is borne out by Report for 1842, para. 85.
C. D. A. 605. April 27, '46.

Rules for writing decrees of Court.
S. D. A. Feby. 12, '47.

With a view to defeat the purposes of those who collusively obtain decrees in confession of judgment, the Courts have resolved,—

1st.—That in suits in which judgment is confessed, the claim must be *proved*, as in cases decided *exparte*. No decree shall therefore be given simply on the admission of the claim by the Defendant, without also proof of it by Plaintiff

2nd.—No decree for real property founded on confession of judgment, shall be admitted to bar the sale of rights and interests in such property in execution of a money

decree. At the time of sale, however, it shall be certified to purchasers that such a decree exists. DECREES OF COURT.

C. D. A. Novr. 25, '47.

The first rule will only cause a great increase of perjury, without remedying the evil. A false deed, and false witnesses, will easily be brought forward as proof against a confessing Defendt.; and the affectation of investigation and proof will do mischief, by giving an appearance of greater value to the decree, than it really deserves.

Judges to transmit to S. B. and Collr. a copy of every decree regarding malgoozarree land, which they may pass. Also copy of every decree which may be sent by S. D. A. to be enforced, with an abstract of the principal points.

S. 11. III. 08.

Copies of those Decrees only which are final, and of which execution shall have been taken out, to be sent to Revenue authorities.

S. D. A. Octr. 5, '38.

Copy of decrees by which the right in, or possession of, lands held exempt from payment of revenue may be affected, to be likewise sent to Revenue authorities.

S. 3. LVIII. 1795.

In modification of Cons. 935 and 1056, and in C. No. 42. Feby. 15, '44, it is prescribed that to give a title to a share in the proceeds of a sale rateably, the claimant *must take out "Proofs of Attachment" previous to the sale of the property.*

It is also directed, that before any distribution of the Assets, the attaching decreeholder shall be re-imbursed from them the charges which he had actually incurred.

S. D. A. Novr. 25, 47.

DEEDS.—See "Registrar of Deeds." DEEDS.

DEMANDS FOR SURRENDER OF REFUGEES, both on the part of our own Govt., and in compliance with those of our neighbours, to be confined to the case of heinous offenders, such as murderers, highway robbers, &c. &c. leaving the privilege of asylum inviolate as regards debtors, defaulters, and civil and petty offenders of every kind; and the same rule to be observed in regulating the intercourse of different native states between each other. Court of Directors, May 27, '35. DEMANDS.

S. B. March 15, '36. C. 194. March 4, '36.

Foreigners charged with murder, robbery, or any crime amounting to felony, taking refuge in British territories, liable to be apprehended by M.

Con. 929. Jany. 20, '35.

See "British subjects." "Emigrants."

When a robbery takes place in the British territory, and part of the stolen property is found in a Foreign territory, the party cannot be tried for receiving stolen property.

N. A. R. II. 80. III. 149.

DEPOSITS.

DEPOSITS.—See subordinate head of "*Deposits*," under "TREASURY."

DEPUTATION.

DEPUTATION.—See "Allowances." "Pay." "Absence."

M. has power to depute officer into the interior, (S. 2.) and to declare by whom the deputation allowance is to be paid (S. 3.) (Such deputation charge, if not paid, to be realized as costs of suit in civil cases. Commr. of Circuit has the same power of deputing Assistant with special powers. Con. 678. Feby. 24, '32.) Such deputation to be immediately reported to Govt. (S. 4.) And to the S. J., who may revoke it, sending copy of his order, with the proceedings, to the N. A. for orders. (S. 5.) Such deputations only to be made in cases of urgency. (S. 6.)

XI. 24.

No Assistant to be deputed into interior without special sanction of Commr.

S. B. IV. 64.

The date of sanction should be quoted in the Bill for Tentage.

Commr. 5th Division. Feby. 29, '48.

Although Collectors are not entitled to Tentage, they are expected to be frequently moving about their districts, and maintaining a free intercourse with their people. It is one of the terms on which they hold their office, to be always ready to go any where in their districts, when the public service may require it.

S. B. IV. Sec. VIII.

Any Officer whose allowances are less than Rs. 23,000 per annum is entitled to travelling allowance of 5 Rs. a day, or so much as will make his total allowance equal to the sum of Rs. 23,000.

G. O. Jany. 13, '40.

Deputy Magistrates in charge of sub-divisions, are entitled to draw a travelling allowance of 3 Rs. a day, while moving within their jurisdiction. This does not interfere with orders of July 1st, '46, authorizing Deputies residing at Station, and drawing 200 Rs. a month, to draw travelling allowance of 5 Rs. a day when deputed into the interior on duty.

Supt. of Police, No. 7. 1847. Lower Provinces.

DEPUTY MAGISTRATE

DEPUTY MAGISTRATE may have the powers, either of a covenanted assistant, or the full powers of a Magistrate; and his appeals will lie accordingly. He must sign a declaration like oath of Assistant. (For form of Oath see "Assistant.") As a police officer, he is entirely subordinate to the M. He cannot be dismissed without a report to Govt.

XV. 43.

Deputy M. with the full powers of M. can commit to Sessions.

C. 173. July 26, '44.

DEPUTY MAGISTRATE.

It has been ruled by Govt. that powers conferred under XV. 43. are *personal*, and not local; and that, therefore, a Deputy Magistrate invested with special powers, carries them with him to any other district to which he may be appointed.

Commr. 5th Division. Decr. 6, '48.

RULES *for* DEPUTY MAGISTRATES *and* ASSISTANTS *in charge of sub-divisions, Lower Provinces.*

1.—They will hear, and pass orders on all Police Reports, receiving petitions, and deciding, or committing all cases brought before them, excepting such as M. may think proper to call for and decide himself.

2.—As the great object of stationing Officers in the interior of Districts is to relieve the inhabitants from the delays and inconveniences to which they are now subject, and to secure a more effectual control than has hitherto been possible over the distant Police, Duputies are particularly enjoined to avoid all unnecessary detention of parties, to render themselves freely accessible to people of all classes, to listen to their communications with temper and consideration, and during the cold weather to be as much as possible upon the move, visiting the Thannahs, investigating serious offences on the spot, acquiring every possible information from every available source, as to the characters of the Police and Landholders, ferreting out receivers of stolen property, and such parties as make a practice of harbouring robbers, and generally (after consultation, if necessary, with M.) taking such measures as may appear most advisable for the suppression of crime, and the maintenance of peace and good order.

3.—On the occurrence of any heinous offence, they will report to M. either in English, or Vernacular, and will keep him weekly informed of the progress and result of their proceedings for the apprehension and conviction of the parties concerned, paying due regard to any instructions they may receive from him. M. will forward copies to Supt. of Police.

4.—Corpses to be sent to Deputy, if on the line to station, who, after inspection, will send on to Doctor. If not on the line, or absent, the corpse should be sent to Doctor, who will report to Deputy. When necessary, M. will take Doctor's deposition, and send copy to Deputy.

5.—Deputies will invariably correspond with the superior authorities through M. except in cases of emergency.

6.—Monthly statements to be sent on 5th of each month,—Annual on 10th Jany. Deputy to note on statements how often during the month he had proceeded on duty into the interior, and the number of days they have on that account been absent from their stations.

7.—Parties sentenced to imprisonment *without* labor not exceeding one month, to be retained.

8.—When exceeding one month, or with labor, to be sent to Sudder Station never less than once a week, with warrants, calendars, and all other necessary papers. The term of imprisonment will be calculated from the date of *sentence*.

9.—By the same opportunity Fines, Deposits, Price of unclaimed property, &c. &c. should be transmitted, with copies of weekly Cash Account, which must give clearly the different heads of receipts. Deposits of diet money for witnesses being repayable to depositors, need not be remitted.

10.—All refunds of Fines, Deposits (with the above exception), &c. &c. will be made

DEPUTY MAGISTRATE

from M 's treasury, on receipt of a Roobakarree from Deputy, who is strictly prohibited from making any refunds himself, or any disbursements except such as have been sanctioned by M

11.—Records of cases finally disposed of to be sent to M on 1st Jany of each year, arranged in bundles according to Thannah and offence, and accompanied by a clearly arranged catalogue.

12.—Should Deputy see reason to believe that any of their Omlah, or Police Darogah, Mohurrir or Jemadar, has been guilty of misconduct or is otherwise incapacitated, so as to render necessary his removal from office, he will report the circumstances through M to Supt. of Police, forwarding papers, with opinion, for final orders,—suspending such officers on his own responsibility, should this appear advisable

13 —The dismissal of Burcundauzes, Chokeydars and Goraits, as also the appointment of Burcundauzes, and the confirmation of Chokeydars and Goraits nominated by the Zumeendars, rests entirely with Deputy, subject of course to an appeal, in the case of the former, to Supt of Police, and in that of the latter, to M Deputy will, however, furnish M with monthly statement of Burcundauzes, Chokeydars, and Goraits dismissed by them, specifying in each instance the nature of the offence. Should it be such as to render re-employment of Burcundauze improper, Deputy will forward the papers through M to Supt. of Police for the necessary orders

14 —A similar statement of Police Officers punished by fine, or suspension, to accompany the above.

15.—Deputy will be very careful to issue no "Dustoor ul uml," or circular order of a general nature to the Police, without the approval of M and the Supt of Police.

16 —On a vacancy occurring in the ministerial establishment, or in any of the higher grades of Police, Deputy will nominate the candidate whom he thinks most capable, giving the preference on all occasions to subordinates who may have distinguished themselves. They will then take the deposition of their nominee in open cutcherry, as to his residence, former employment, with dates, fact of removal from any appointment, with cause thereof, relationship or connection with any residents in the Division, or with any of the Omlah in the district offices. This statement to be forwarded with nomination, for approval of M and Supt of Police.

17 —Deputy will keep in his office at all times ready for M 's inspection the following books .—

Registers of Hajut and Bail cases pending. Miscellaneous and Burawurda cases. Act IV 40. cases

Deputies will take care that the cases are entered in these on the day of their institution, and they will write the decision, at the time of its delivery, with their own hand.

Register of Fines.—This the Deputy will keep open on his table, and will enter the fines, as he pronounces the order. He will take care that all fines are paid in his own presence, and will enter the receipt at the moment under the proper heading. In forwarding to the station prisoners who may be sentenced to imprisonment, with fine in lieu of labor, or in lieu of an additional term of imprisonment, the Deputy will always send with them an abstract from the fine book, in order that these fines, which will then be payable at the station, may be duly entered in the books of M 's office.

Book of Police Officers' good conduct, and a separate book of bad conduct In these books the Deputies will note every occasion on which a Police Officer may dis-

tinguish himself, and every instance in which he may be reprimanded, fined, or suspended.

Book of Daily Receipts and Disbursements.—This book must never be allowed to fall into arrears, and from it will be made out the weekly cash accounts for transmission to M.

Register of persons who have eluded the pursuit of justice, and Register of persons who have broken jail. These books must be carefully kept, and measures should be taken by the Deputies every now and then, to ascertain whether the parties have returned to their houses, or to what part of the country they have made their escape. Notice of the escape of these parties must always be given to M. in order that their names may be entered in his books.

Also a book of Calendars of Commitment.

In the vernacular, the following Books and Registers. 1 book of Perwannahs. 1 of Summons and Dustuks, &c. 1 Register of Petitions. 1 Register of Thannah Reports, 1 book of copies of Roobkarees. 4 Record-keeper's Registers of cases, according to Mr. Robinson's plan. 1 Daily register of parties in attendance, according to orders of N. A. 1 Register of subsistence money deposited by parties to suits. 1 Register of subsistence money paid to witnesses by Govt.

This money the Deputies, or Assistants, will invariably see paid in their own presence, and will send a detailed statement of sums paid to each witness on account of Govt. to M. monthly, on 1st of each month, that it may be included in the contingent bill. Occasional sums of money, not exceeding Rs. 100 at a time, will be sent by M. to the Deputies to enable them to make these disbursements, which, however, if the orders for prompt disposal of causes are properly acted up to, ought to be of rare occurrence.

Two Registers of "Ladavee" and "Lawaris" Property. In these will be entered all property, whether stolen, suspicious, unclaimed, or left by persons dying intestate. The latter will be forwarded weekly through M. to Civil Court.

A Register of Chokeydars. This Register must be very carefully kept up; the removal of a Chokeydar, and the name of his successor being noted immediately. Deputies will take every opportunity on visiting their Thannahs of assembling the Chokeydars, and testing its correctness; weeding the force at the same time of all men who may appear incapable of the active performance of their duties, and ascertaining that the whole have been regularly paid.

Book of prisoner's Rations.—The rations of the prisoners and persons under trial in "hajut" will be furnished, whenever practicable, by the Jail Modee, who will keep an agent for this purpose, and receive payment from M. on Deputy's vouchers. These vouchers may be in vernacular, but Deputies will superscribe them in their own handwriting, with number of prisoners, and initials. On the 1st of each month they will send a vernacular list of prisoners in confinement on every day of the month, for comparison with the vouchers.

At the same time the Deputies will furnish M. with vernacular memo. of number of prisoners in confinement, or in transit on the last day of preceding month, as also number of escapes and deaths, to be entered at foot of M.'s statements.

18.—Officers exercising the above powers will hear and pass orders on all reports from the Thannahs under them, and dispose of all the cases occurring in their jurisdiction, and within their competence to decide. All cases of a heinous nature, such

DEPUTY MAGISTRATE.

as Murder, Dacoity, aggravated Burglary, or serious Affray, must be immediately reported to M.; but the subordinate Officers will at the same time pass such orders as may be necessary, and proceed themselves to the scene of the crime when practicable, for the purpose of carrying on the requisite inquiries, without waiting for M.'s instructions. On receiving these latter, they will of course be guided accordingly.

19.—They will proceed to take evidence in felonies and misdemeanors, which, though beyond their competence to decide, may be unattended with aggravating circumstances, such as simple theft above 50 Rs., simple burglary, and the like. Where charge *not* proved, Deputy will dismiss the parties with exception of defendants, whom he will keep on bail for orders of M. Where charge is proved, the prisoner and papers will be sent at once to M. This applies also to prisoners triable under III. 44. who can only be sentenced to bents by Officer with powers of M.

G. C. O. Feby. 18, '46.

(The general principle of much of this Circular applies equally to N. W. P.)

Deputies, and Uncovenanted Judges with powers of M. are *not* to exercise *appellate* authority; and petitions of appeal, whether from covenanted or uncovenanted subordinates, shall not be referred to them for decision.

C. 3. March 7, '49.

See "Deputation." "Magistrate III. 2."

DEPUTY COLLECTOR.

DEPUTY COLLECTOR must make solemn declaration, in the form of the oath required under S. 26. V. 04. from persons employed in collecting the revenue, before entering on their duties.

S. 19. IX. 33.

For form of oath see "Assistant."

His tent in the interior of the District, to be carried at the public expense.

S. B. IV. 68.

D. Cs. liable to be transferred to any zillah in the N. W. P. where their services may be required.

S. B. IV. 70.

Not to get into debt in the district.

S. B. IV. 71—74.

The sanction of Govt. must be obtained, and notified in the Gazette, before a IX. 33. Deputy Collr. can be placed by his covenanted superior in charge of the Collr.'s Treasury. When so sanctioned, he can perform all Treasury duties, he being responsible jointly with the Treasurer for the custody of the public money, and for the proper observance of all the prescribed checks and accounts; but the Collr. is not thereby exonerated from his general responsibility as head of the office. See "Treasury No. 13. Officer in charge of."

G. O. Novr. 19, '41. *Manual*, 49.

DEPUTY OPIUM AGENTS.—DHURNA.—DIARIES.—DIET MONEY.

DEPUTY COLLECTOR.

Possession of land in a district is a disqualification to a Deputy Collr. who must be removed elsewhere.

S. B. Septr. 15, '43.

All IX. 33. Deputy Collrs. are vested with powers of Deputy Magts. under XV. 43, and competent to exercise the ordinary powers of Assistants under S. 20. IX. 07. Special application must be made to Govt. for special powers under III. 21. or for the full powers of Magte. udder S. 3. XV. 43.

G. O. Octr. 13, '45.

Deputy Collrs. will be promoted to a higher grade after they have performed their duties satisfactorily for 5 years in a lower one.

G. O. July 11, '46.

DEPUTY OPIUM AGENTS.

DEPUTY OPIUM AGENTS.—See "Opium."

DHURNA.

DHURNA.—Punishable with 200 Rs. or 6 months in Civil Jail.

S. 7. VII. 20.

Aggravated cases to be committed to Sessions, and punished by S. J. with 1 year, and fine of 1000 Rs. or 1 year more.

S. 3. 5. VII. 20.

DIARIES.

DIARIES—To be kept at thannahs, and every occurrence carefully and punctually entered, on pain of dismissal. Too great stress cannot be laid on seeing that *every incident is carefully noted in the diary, and copy of each day's entries despatched regularly to M. by the dâk of the day.* It the greatest check upon cheatery, and ties the police down to the original statements made to them. Otherwise, the diaries are often left blank for days, until bribery has done its work, and it is arranged in what shape the case is to be sent to the Magte., and then the diaries are filled up to match. Every circumstance however minute, down to the going backwards and forwards of individual burcundauzes, should be noted.

S. 8. XX. 17.

DIET MONEY.

DIET MONEY only to be allowed to *indigent* prosecutors and witnesses; the account to be signed by S. J.

C. 75. Septr. 6. '10.

Where prisoners are unable to support themselves during the journey from thannah to M.'s Court, the Darogahs may advance diet money, not exceeding 1 anna per diem, reporting the same to M.

S. 13. XX. 17.

DIET MONEY.—DIFFERENCE OF OPINION.—DISMISSAL.

DIET MONEY.

Diet of prisoners in Criminal Jails can be reduced for contumacy, neglect, or indolence.

C. 2. S. 6. XIV. 16.

Ditto in Civil Jails.

C. 2. S. 5. III. 26.

In modification of the subsistence money for "*period of one month*" prescribed by C. 1. S. 2. III. 12. no process is to be issued for the attendance of witnesses on any charge of adultery, fornication, calumny, abuse, slight trespass, or inconsiderable assault, unless the person by whom such charge is preferred, deposits in the hands of the Nazir a sufficient sum for the maintenance of his witnesses, residing at a greater distance than 5 cos from M.'s Court. *The amount of diet money* so required, *is to be regulated by M. with reference to the probable period such witnesses may have to be in attendance;* and the *rate per diem* is to be fixed by him in each case, not being, however, in any instance less than one anna, or more than three annas, for each witness. In the event of prolonged detention of witnesses, M. is to direct the deposit of any further sum which may appear requisite.

Act VII. 46.

DIFFERENCE of OPINION.

Difference of Opinion.—Where a precept of S. J. on appeal may appear to M. contrary to Regns. he may state his objections, and suspend execution till receipt of second precept, which he shall immediately execute. At the same time, however, that he certifies execution of the order, he may request reference to N. A.

This only refers to *difference of construction*, and does not authorize M. to question the propriety of any order of S. J.

S. 2. XXII. 03.

DISMISSAL.

Dismissal.—See "Corruption." "Officers of Police."

DISOBEDIENCE.

Disobedience of M. to order of S. J. to be reported to N. A.

S. 30. VII. 03.

N. A. in all cases of neglect and misconduct, to report to G. G. in C. or admonish the party, as the case may require, under S. 38. V. 03.

S. 24. VIII. 03.

Dispossession of Lands, see "Possession."
Disputed Lands, see "Possession."
Distilleries, see "Abkarree."
Distraint, and Distrained Property, see "Summary Suits, heading No. 1."
Divisions of Estates, see "Partitions."
Doctors, see "Magistrate, III. 7."

DOMESTIC SERVANTS, see "Servants." "Masters."

DROP, sketch of, C. 53. April 23, '30.

DRUNKENNESS, see "Intoxication."

DUSTUKS, see "*Land Revenue*, heading No. 1."

DUTIES.—Inland Custom, and Transit Duties abolished. Hurrah ! ! ! with the exception of the frontier line, and western salt duties. Rates of duty on goods imported and exported by sea, see "Customs."

XIV. 36.

DWELLING HOUSES.

DWELLING HOUSES.—If, in partitions, a dwelling house of one sharer falls into the puttee of another, the proprietor of such house shall be at liberty to retain it, upon paying an equitable rent for the ground, a memo. being made in the partition paper. Such matters, however, must be settled, and possession arranged, before the partition is finally completed.

S. 9. XIX. 14.

Bonâ fide leases of land for houses, gardens, &c. &c. upheld, notwithstanding sale for arrears of revenue.

C. 4. S. 26. I. 45.

EDUCATION.

EDUCATION.—Collectors to do all they can, without means, to promote vernacular education.

G. O. June 19, '45.

Little has been done by Govt. in the way of education. Instead, therefore, of quoting rules and regulations under this head, I may perhaps be permitted to present some extracts from my Report to Govt. of March 6th, '44, written after inspecting a number of the schools, with the orders of Govt. upon it.

1st—Speaking of the Juanpoor Mission school, "the BIBLE is read at certain hours by such boys as are willing. Those who have scruples as to reading it sit down. It is *not* compulsory."

"This appears to me the turning point of the system, which brings it within the scope of Govt. patronage. In directly missionary schools, where the perusal of the Bible is *compulsory* upon all the pupils, it may admit of a doubt how far Govt. ought to interfere. But, where this is not the case; where it is entirely optional with the boys to read the Scriptures; and where a good secular education is given, I do not see why Govt. should not give some support to those who are working out its object, in the moral and intellectual improvement of the people. The *principle* is conceded by Para. 7, of the letter of the Hon'ble Court of Directors, No. 3, dated February 23rd, 1842, in which they say :—"The Court considers the circumstances of Assam eminently favourable to the introduction of civilization and *religion*," and "do not think that in encouraging efforts for its accomplishment to the extent proposed, (*'a Grant of land to the Moravian Missionaries'*) the Govt. in any degree violates its engagements, actual or implied, to any class of its subjects. As far, therefore, as regards the consideration of the most effective means for extending civilization in

EDUCATION. Assam, the views of Mr. Robertson and Capt. Jenkins have our entire concurrence." "We shall be prepared to sanction a grant of land of the description proposed as an experimental trial." Still stronger precedents are supplied by the Cawnpoor free school, and Jye Narain's College at Benares, which are supported mainly by Govt., and yet carried on by clergymen on a strictly Christian basis. With reference to the latter admirable institution, the orders of Govt. dated March 6th, 1819, were to the following effect:—"The Governor General in Council, approving the laudable objects of the institution, and anticipating the beneficial consequences which it is likely to produce, has resolved to afford public encouragement to the undertaking, by authorizing you to apply, on the behalf of Government, a monthly donation of Rs. 252, towards the expenses of your school."

"The principle of *affording Christian instruction during a fixed portion of every day to all who do not object to it*, involved in such a grant, is a deeply important one, and worthy of the most serious consideration. It appears to me just and equitable, and what a professedly Christian Government is bound to adopt. Were the *Bible* admitted into the Government schools, but its perusal limited to the half hour, or hour, previous to the general meeting of the school, and no boys admitted whose parents or guardians objected to their attendance, I do not think that either Hindoos or Mahomedans, could reasonably object. Half an hour so spent every morning, would give quite a different tone and character to our institutions, and obviate the reproach of irreligion to which they are now deservedly subject.

Such a Bible class should, perhaps, under present circumstances, be optional to the master, as well as to the scholars, as no good could result from Bible reading under a master whose heart was not in the work. (See Appendix XVI. for the liberal support given by Government to Christian Schools in the Madras Presidency.")

Lord Tweeddale's minute adopted the above principle; but the proceeding was ill-timed, and annulled by the Court of Directors.

It must, however, I think be allowed, that if good education be the drawing out to their greatest perfection, the moral, intellectual, and physical qualities of the individual, the Government system, which neglects the moral and physical, and attends merely to the intellectual progress of the pupils, must be imperfect. It produces a number of sharp, clever lads; but it gives them no religious and moral ballast.

(See the Compiler's "Notes on Education.")

"I may remark in passing, what a complete refutation Jye Narain's College affords to the arguments of those who are afraid of recognizing Christianity in our Government Institutions. Here is a Christian school made over by its Hindoo founder to the Church Missionary Society, from reverence to the virtues of Mr. Corrie; taught and superintended by Missionaries who make the Bible the foundation of their teaching; and receiving 252 Rs. a month from Government; flourishing in the midst of the bigoted city of Benares, without a voice being raised against it from 1819 to the present day!"

2nd.—The second great evil is "THE TOTAL WANT OF EFFICIENT SUPERVISION AND INSPECTION." Govt. have to trust entirely to the Reports of Local Committees, or of the masters themselves; and, in some instances, the only mention made of expensive Govt. Institutions in the annual reports is, "No returns received from this Institution!!" and this without note or comment, or any attempt to obviate such gross neglect.

EDUCATION.

The Council is fully aware of this radical defect. They state—" We feel it our duty to add, that it is our conviction that the rules cannot be sufficiently enforced, or the returns required sufficiently answer the purposes for which they are demanded, *unless our institutions are subjected to unexpected visitation, and searching inspection.*" In a subsequent report they say, " We would most earnestly suggest that the interest of this highly important department will be best promoted by allowing all Educational Institutions to be superintended by *one* authority, directly responsible to Govt., by the appointment (as in many Foreign European countries) of a Minister of Public Instruction, with properly qualified Inspectors." " We must state our firm opinion that without one of these plans, the duties of the Education Department cannot be fully or uniformly provided for " Again, they attribute their want of success " to the absence of an organized system of inspection, or examination, or even adequate local superintendence, in regard to teachers after appointment," and " beg to direct the earnest attention of Government to the necessity for unexpected visitation, and searching inspection." After reiterating their conviction of the absolute necessity for such visitation and inspection, they again return to the charge, saying, " We would strongly recommend that a qualified Inspector be placed at the disposal of the General Department Secretariat, with a view to his being employed in the continued visitation and examination of the mofussil Government Colleges and Schools. He should be constantly moving about, and be empowered to examine fully into the state of the Schools, both as to the proficiency of masters and of pupils."

These reiterated and urgent recommendations have at last been successful in Bengal, where an Inspector has been appointed ; but nothing of the sort has yet been done in the Agra Presidency.

I would beg most earnestly to draw the attention of Government to this subject. I look for no improvement in the Government Schools until they are placed under the superintendence of a single individual directly responsible to Government, whose whole time and attention should be devoted to visiting and examining every school in person during the cold weather. In the hot weather and rains he might be usefully occupied in superintending the preparation and printing of a complete course of moral and scientific school books in English, with counterparts in each Vernacular dialect of the Presidency ; in issuing an occasional " School Intelligencer," in overlooking a central Normal College to be established at his head-quarters ; in training Schoolmasters ; and in acting as a general spring of action, and centre of communication and information to the translators and other friends of education throughout India.

For the office of Superintendent, a man of great zeal, energy, high character, and administrative ability, rather than a mere scholar, linguist, or man of scientific reputation, is required ; one who will throw himself heart, soul, and body, into the cause of education, and have influence and moral energy sufficient to carry others along with him, and induce them to co-operate in the great and glorious object of improving the moral and intellectual condition of the people of India. No expense should be spared in procuring a really efficient officer to devote himself for a course of years to this responsible, laborious, and hitherto despised and neglected department of duty. As the success and efficiency of the whole system, of which he would be the mainspring, would depend upon his salient energy and activity, no sacrifice should be considered too great to induce the very best man available to undertake the task. When we consider that that task is no less than the superintendence of the whole educational

EDUCATION. concerns of some 30 millions of human beings, entrusted by Divine Providence to our care, it is hardly possible to exaggerate its immense importance. The plan has been adopted successfully on a small scale under Captain Candy in the Deccan, with the approbation of the Court of Directors, who in their letter No. 3, Feb. 23rd, 1842, say, "It is satisfactory to us to find that the sentiments of the Right Hon'ble the Govr. "Genl. are in unison with our own. Although he would for the present continue the "Committee of Education, yet he anticipates the time when unity and efficiency of "supervision will better be secured by having a *single* Superintendant of the Govt. "Seminaries, with an adequate establishment, than by retaining the existing large "Committee of members acting gratuitously in the intervals of other laborious duties, "and so numerous as necessarily to cause frequent inconvenience in the despatch of "business. We are decidedly of opinion that much time and trouble would be saved, "and much additional efficiency would be secured by the superintendence of Public "Instruction at the Presidencies being exercised by their respective governments "through the instrumentality of officers of competent acquirements, experience, and "ability, whose whole time and talents should be exclusively devoted to the duty.

"There is, of course, no necessity for any precipitate alteration of the present plan, "but it will be well to bear in mind the probable expediency of the change, when a "favourable opportunity for effecting it shall occur."

Such Superintendent should be selected from the covenanted service of Govt. which would give him greater weight and influence. He will cost more, no doubt; but if well paid officers can be afforded as "Inspector of Jails" and "Postmaster General," there is no good reason why a similar man, on a similar salary, should not be employed to place the Education department on an efficient footing. It would soon be found to be good economy, if the man selected had really a zeal for education, and throw himself energetically into the arduous duties of his situation. It is to be hoped, also, that now that war is over, additional funds may be devoted to Educational purposes.

3rd. The next great want, is that of a CENTRAL NORMAL COLLEGE, to bring into one focus the scattered talent of the different Institutions, and to complete the *professional* education of the most promising youths, destined to the service of Govt. in the departments of Civil and Criminal Administration, Tuition, Civil Engineering, and Medicine.

In Para. 10 of their letter No. 1, dated Jany. 20th, 1841, the Court of Directors state, "Lord Auckland's suggestion to connect the provincial schools with a Central College, so that the ablest scholars of the former may be transferred to the latter, for the purpose of securing superior instruction, seems very judicious."

"I would propose that the Junior Scholarships, instead of being allotted as at present, so many to each Govt. School, should *all be open to the general competition of all schools whatever within the Presidency.* This would do away with the present monopoly, excite general emulation, afford a valuable test of the relative efficiency of the different establishments, enable Govt. to distinguish and reward the best teachers, and draw into its service the very elite of the rising generation."

To do this fairly, the examination papers should not be founded upon the peculiar course of study in the principal Govt. Institutions, but be of a general character, so as to allow of students from private schools competing. Lord Hardinge's noble order of October 1844, has been completely nullified by the way in which it has been carried into execution.

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I would also recommend, that the examination papers for scholarships be much simpler, to prove a *thorough* knowledge of a few well chosen books and branches of study, rather than a superficial reading of a vast quantity. The schools are greatly injured by the masters' devoting nearly all their time to cramming two or three of their sharpest boys up to the scholarship standard, to the neglect of all the rest. I would judge rather by *quality* than *quantity*.

"It might be necessary to provide, that the pupil of any *private* seminary gaining a Junior Scholarship, should in future attend at the nearest Govt. College, and submit to its rules. The other junior scholars might, with advantage to their morals and progress, be allowed to remain at the Govt. schools in which they were brought up, as paid Monitors, giving one or two hours a day to the instruction of the junior classes, in return for their pay. I am convinced that the time so spent, instead of being injurious, would be beneficial to the Monitors, in impressing what they had learnt on their minds, and giving them a facility in explaining and expressing their ideas in the vernacular. They might not read through so many volumes, or make so much apparent progress; but what they did know, they would know thoroughly; and they would acquire one main object of Govt. in their education, namely, the power of transfusing their English knowledge into the vernacular, and so acting with effect on the minds of their young fellow-countrymen. It is a bad plan to pay boys for nothing. It encourages the notion that Govt. has some concealed object in giving education, and that the boys do us a *favor* in attending school. The truth is, our schools only require all this artificial support from being so useless, and foreign to the wishes and habits of the Natives. If we taught what would be really and tangibly useful, we should have boys enough. As for the plea of poverty, we do not want poor boys for the higher branches of science, and Govt. employ. We should try to get the children of the higher classes, who could afford to complete their education, and who would diffuse its benefits over a large circle of dependants, and we *would* get them if we took more pains to teach what it is their object to learn. The Court of Directors in their letter to the Govt. of Madras, dated Decr. 30th, 1842, state that 'the object of Government should be the elevation of the standard of Education, and the instruction *of those classes which can spare time sufficient to acquire more than mere rudimental learning*.'"

In employing Monitors, the teachers must be on their guard against the vice of the system in encouraging pride and vanity, and do their best to keep the boys humble and modest.

"The Senior Scholarships might be divided among the different departments, according to the exigencies of the public service; that is to say, a certain number of vacant scholarships might be allotted to Civil Justice; others to Criminal and Revenue Administration; a certain number to Tuition, and others to Civil Engineering, Medicine, &c. &c and such junior pupils selected as appeared best adapted for the different departments. This done, their education would thenceforward assume a more strictly *professional* character at the Central Normal College, to fit them thoroughly for the public service into which they would be annually drafted as the Sub-Assistant Surgeons now are from that admirable Institution, the Calcutta Medical College."

"The professors of the College, selected from the best masters, would assist in preparing good class-books, both in English and the vernacular."

EDUCATION.

"Mr. Hodgson's Fund, and large private subscriptions, would probably be available towards the expense of the original erection and establishment of such an Institution."

"4th. The next deficiency I would notice, is the want of GOOD VERNACULAR CLASS BOOKS, and of a vernacular literature generally. The Court of Directors, in their letter No. 1., Jany. 20th, 1841, say, "We authorize you to give all suitable encouragement to translations of European works into the vernacular languages, and also to provide for the compilation of a proper series of vernacular class books according to the plan which Lord Auckland has proposed."

"Something is now being done to remedy this deficiency; but there it a great want of concentrated effort, and of a central authority to whom all intending writers, or translators, could refer for information and support, and by whom approved works might at once be paid for, printed, and circulated in all the schools. The Superintendent of Education, and the Professors of the Normal College, would supply exactly the sort of agency required."

"Many of our Schoolmasters are competent to prepare vernacular works, if properly encouraged; but hitherto there has been so much delay and apathy on the subject, that even able and willing men have been discouraged. It is a point of the utmost importance to draw the attention of our *Teachers* to the Vernaculars, and induce them to acquire a thorough mastery of them. Payments for Translation work would form a welcome addition to their salaries."

I would here beg to hint to Committees, and gentlemen examining schools, that they too often do much mischief to the cause of Vernacular Education, by their merely examining the head English classes, and generally neglecting the Vernacular ones. The truth is there are very few indeed who are competent to examine a vernacular class. We too often content ourselves with mere household and official jargon. Few read vernacular works, or have any knowledge of the written language of science; and there is probably not one out of fifty of my readers who could render "Multiplication and Division," "angle" and "triangle," or give the vernacular names of the Planets? This would be one great benefit of a paid competent Superintendent. The vernacular classes would be examined as searchingly as the Engligh ones, and the pupils would feel that they were not neglected. I am delighted to see that the Council have ordered the European masters to make the study of the Vernacular their special care, warning them that "neglect of this would operate against their promotion." If this threat is really acted up to, it will do much good.

"It appears a mistake of the Council, their having relinquished the BOOK AGENCY department, and substituted a monthly allowance to each school, to be spent at the discretion of the local Committees. It is self-evident that a single central authority, if really efficient, and removed from the influence of Book-sellers and Instrument-makers' jobs, must be able to prepare and supply books, translations, and apparatus, on a wholesale scale, far better and cheaper than isolated local Committees. The Superintendent could of course have no objection to the local purchase of cheap second hand books whenever practicable."

"5th. A main object with Govt. ought to be, the establishment of VERNACULAR BRANCH SCHOOLS, and the IMPROVEMENT OF THE INDIGENOUS VILLAGE SCHOOLS. The Vernacular schools have hitherto been almost totally neglected. If the masses of the population are to be improved, vernacular schools must be established, and the

indigenous ones improved. Millions of poor natives cannot by any possibility learn the difficult language of a few thousand conquerors. If they are to be taught at all, it must be through the medium of their mother-tongue." EDUCATION.

"At present the indigenous schools teach little beyond the mechanical arts of reading and writing, and the rudiments of Arithmetic; but, with a little encouragement and assistance in Books, Maps, &c. &c. annual examinations, and rewards to the most deserving and successful teachers, many hundreds of such schools might be rendered tolerably efficient. An immense field of primary instruction would thus be brought under the influence and direction of Govt. at a trifling expense, and abundant sources opened for supplying the Zillah schools with a class of boys already in some degree acquainted with their own language, and the elements of European knowledge, and prepared to derive full advantage from the superior means of education brought within their reach."

I say "trifling expense;" but this does not mean "no expense at all." The Govt. however, appear to expect all Collectors of Land Revenue to become ex-officio Superintendents of Education, and to promote it by all means; whilst Govt. itself only furnishes a copy of the Pheilawut, &c. &c. for each Tuhseeldarree!! This will not answer. Nothing can be done without some means. Even Archimedes required a fulcrum. If, therefore, Govt. is really in earnest to improve the indigenous village schools, it must make up its mind to some expense. There must be an Inspector under the Collr. upon 150 or 200 Rs. a month; a considerable outlay in elementary school-books below cost price; rewards and presents to the best village teachers and scholars; and, perhaps, fixed salaries to a better class of teachers at the Tuhseeldarree and Thanna stations and the principal towns in each district. But, when the object in view is considered, what is an expense of 2000 Rs. in each zillah?

The present Lieut.-Govr. is a great advocate of village schools, and has taken much pains on the subject. His plan was to give the village Schoolmasters jagheers of 10 beegahs each, thus placing them on the same footing as the Putwarree, Chokeydar, Goreit, and other village servants. This is, no doubt, the cheapest way of providing for them; as the reduction of revenue would not exceed 12 or 20 Rs. per annum for each jagheer. Such a sum is insignificant as a money payment, and would be refused by any decent man; yet the jagheer would willingly be received, and would support the teacher in comfort and respectability. The decision of this point will rest with the Court of Directors; who, it is to be hoped, will sanction an expenditure, whether in money, or jagheers, sufficient to place the vernacular education of the country on an efficient footing. They have already, in their letter No. 27, dated October 2nd, 1839, sanctioned as "judicious," the graduated scale of allowances to the teachers of village schools, and the grant of 1 rupee a month to the best monitors of each school, as proposed by Capt. Candy in the Deccan.

Many good men have a feeling against the Govt. system of Education. Where it really is education; that is, where it enters the field of Morals, History, and Natural Science, I fully concur in this feeling; but I do not consider the mere elementary instruction in reading, writing, and arithmetic, given in the village schools, as education at all. These are mere mechanical arts quite distinct from Religion and Morals. I could therefore zealously carry out the plans of Govt. as to extending these useful mechanical arts, and thereby facilitating the future labours of the educator, or missionary; whilst I could not, except perfunctorily, take any share in the education

EDUCATION. given in the higher Seminaries, where God, as revealed in His own Word, is excluded; and the intellect is stimulated at the expense of religious and moral training.

This is a difficult question; and the very best men will differ in opinion regarding it; but my own feeling is decided, that a Christian Govt., whilst studiously abstaining from all interference with the religious prejudices of its subjects of other faiths, *ought to recognise the Truth of Divine Revelation, and lay aside a portion of each day for its study. Attendance at such time should be strictly voluntary; and no preference whatever should be given to those pupils who attend, over those who, from the religious scruples of their parents, stay away.* A difference in tone and character would, however, soon be developed between the two classes of students; between those who commenced their daily studies in the fear of God, and the study of His Holy Word; and those who carried them on in the proud strength of unsanctified intellect.

"6th. Much more attention ought to be paid to the VERNACULAR. The Council remark, "sufficient time and attention are not devoted to the study of the Vernacular languages, nor was sufficient importance attached to them." "The translations were very discreditable to the young men." The Hon'ble the Deputy Govr. in his speech declared, "In the preparation of Vernacular class books by Dr. Yates and Mr. Marshman, I the more rejoice, because it has always appeared to me that the mental elevation of the native community at large is not to be effected through the medium of English alone, nor through the Vernacular alone, but through the medium *of both.*" And Govt. has desired that "the earnest endeavours of the local Committee might be directed to cause *the Vernacular to be made the vehicle of imparting sound knowledge in Morals, History, General Literature and Science.*" This, however from the want of good books, and of vernacular knowledge on the part of many of the masters and examiners, has NOT been done. The whole stress has been laid upon mere English, and the vernacular department has been almost totally neglected. The late lamented C. C. Fink, of Azimgurh, was an honourable exception; and his success was chiefly due to his thorough knowledge of the vernacular, and his making it the vehicle of most of his teaching. The loss of time on mere English, as an object, not a means, is a crying evil; for, as Milton says, the information which it now "requires seven or eight miserable years to scrape together in a foreign tongue, might otherwise be learned easily and delightfully in one year." The mass of the people have neither time, nor inclination, to spend years in acquiring a smattering of English. What they require is, a short course of really useful, practical knowledge, suited to their circumstances in life, in their mother-tongue. Boys of superior industry, love of knowledge, capacity, and rank in life, may advantageously be encouraged to devote several years to the acquisition of such a knowledge of English as will qualify them for the higher branches of the uncovenanted service, and for the offices of Teachers, Translators, &c. &c.; but a mere smattering of English by boys in general appears to me worse than useless, in wasting time which might have been better spent in acquiring *ideas* through their native tongue, in promoting conceit and pride among such smatterers, and in giving the natives a very low opinion of the results of English Education."

"It should also be borne in mind, that the only chance of improving native *Females*, is through the medium of the Vernacular. This, to me, is one of the strongest arguments for Vernacular, in preference to English books and instruction. Girls will not attend our schools; but the boys should be encouraged to carry home their Vernacular class books, and read them in the family circle. Female curiosity and love of know-

ledge once excited, we may hope for some improvement. Girardin remarks, "There is no instance of a *Mother* who can read and write, whose children are not likewise able to read and write. To give instruction to *girls* is thus to open a school in the bosom of every family."

"I need only add on this point, that the Court of Directors have declared, with reference to Arracan, the "principle object of any schools set up in that country, should be THE INSTRUCTION OF THE PEOPLE IN KNOWLEDGE SUITED TO THEIR CIRCUMSTANCES, THROUGH THE MEDIUM OF THEIR OWN LANGUAGE;" and that the Bombay Board of Education, in closing their report for 1842, state their conviction, that the primary instruction of the people should be conducted exclusively in the vernacular language of the respective provinces; and express "their sense of the importance of providing well-trained masters, and of preparing a series of vernacular school-books, calculated to impart a degree of moral and intellectual training to the body of the people, and to lay the foundation of a vernacular literature, to be made, we would hope, ultimately available for the improvement of the adult (and *female!*) population, by means of village libraries in connection with the schools. It is in relation to this latter object, (the preparation of a series of vernacular school-books, and ultimately an improved vernacular literature) that we view with so much satisfaction the *practical* direction which has been given to the course of study in the Sanskrit College, and to the training of young men as Sanskrit, English and vernacular scholars, the instruments by whom this vernacular literature will be created."

"7th. A radical vice of our system is, the aiming at effect and display. The teachers knowing that their efficiency, and the state of their schools, will be judged by the distant stationary authority in a great measure from the Programme of number and quantity of books read, are tempted to put their pupils into a number of works above their capacity, and to push them through them as fast as possible. Thus mere beginners are put into such authors as Shakespear, Pope, Milton and Bacon, and carried through Euclid before they are grounded in simple Arithmetic. Thus the Council complain that "too much has been undertaken in science, before the classes were duly prepared for it;" and "We have not been satisfied as to the first class. They have undertaken too many things, and, endeavouring to push on too far in science, have failed." Govt. have also declared that "the Calcutta Institutions were too much inclined to indulge a taste for ornamental, rather than useful knowledge; and that Govt. preferred that the attention should be steadily directed to those more solid acquirements, which, in every path of life, were calculated to be practically useful." "This vice runs through the whole system, even to the size of the books, which, instead of being small light volumes, of stitched parts of larger books, as recommended by the Bombay Board of Education, must be bulky, expensive volumes, too large for one tenth of the pupils ever to get through, and of which, whilst but an insignificant portion is read, the rest is thumbed and destroyed."

"Much of this would be prevented by a locomotive Superintendent. There would be far less show and pretence, but much more real efficiency.

"Another evil springing from the same root, is the retaining on the Registers a number of boys whose attendance is most irregular, in order to carry the appearance of a larger school."

"8th. Strict attention should be paid to the boys being perfectly clean, and dressed neatly according to their rank of life. They ought never to be allowed to sit with

EDUCATION. their shoes on, or to indulge in any habit which would be disrespectful among their own people. The impudent and forward manners of our school boys have disgusted many against education itself, and form a most disagreeable contrast to the perfect good breeding of really respectable natives."

"Of course the Master must be equally careful to see that his own part is duly performed, and that the School house is perfectly clean, well ventilated, and furnished with a mat, or floor cloth."

"9th. INFANT SCHOOLS might possibly be established gradually under the care of the more active and zealous *help-meets* of school-masters, who should of course be paid for their labour. Some years would thus be gained for education; and it is generally remarked that the younger the children come to our schools, the better scholars they make."

"These Infant Schools might also, in time, become a nucleus for *Girls' Schools*."

"10th. The Teachers should have the rank of Esquire. The higher they are raised in the scale of society, the greater will be their influence and power of effecting good, not merely amongst their pupils, but amongst their parents and connections. We can hardly expect the natives to look up to, or respect, those whom they see looked down upon by other European gentlemen."

"The authority of a locomotive Superintendent is sadly required to ascertain the characters and efficiency of the different Masters, and promote them accordingly. At present their promotion depends much upon chance, interest, claptrap, and importunity. It ought not so to be."

HENRY CARRE TUCKER,
B. C. S. out of employ.

ABSTRACT.

"1st. The introduction of the HOLY BIBLE into the Govt. Schools for a definite portion of each day, attendance at such time being *optional*.

2nd. The appointment of a locomotive Superintendent of Education, with an efficient establishment.

3rd. The throwing open the Junior Scholarships for the general competition of *all schools whatever*; and the establishment of a Central Normal College of Senior Scholars, to train them thoroughly for the Public Service in the Departments of Civil, Criminal, and Revenue administration, Tuition, Civil Engineering, and Medicine.

4th. The preparation of good moral Vernacular Class-books.

5th. The improvement of Indigenous Vernacular Schools.

6th. More attention to the Vernaculars.

7th. Less pretence and display, and a sound practically useful course of study.

8th. Attention to cleanliness and good manners.

9th. Infant Schools, and Girls' Schools.

10th. The Teachers to be raised. A Superintendent much required to promote them fairly."

In reply to the above, the Lieut.-Govr. stated, that "with reference to the specific proposals, he did not feel himself called upon to deviate from the rule which has hitherto been observed by Govt. of refraining altogether from giving direct religious instruction to natives in the Institutions supported by the Public Funds. The labour of a

Superintendent of Education might no doubt be usefully exerted, but the resources which have been devoted to the promotion of Education, are not adequate to the provision of a sufficient salary. Many of the other recommendations have been already adopted, or are in course of adoption, and are such as to call for the concurrence and approbation of the Government. **EDUCATION.**

G. O. June 11, '44.

Here the question at present rests. A small College for Civil Engineers has been attached to the Ganges Canal works at Roorkee; a new College building for the amalgamation of English and Sanskrit under one roof, has been commenced at Benares; and preparations are making for the patronage and improvement of the Indigenous Village Schools.

It remains for our new Governor General, and the Home Government, to allot more funds, and give a more Christian and practically useful tone to the education afforded in the Govt. Institutions.

Nil desperandum.

EJECTMENT, see "Summary Suits, No. 4. Ouster." **EJECTMENT.**

EMBEZZLEMENT, by Tuhseeldar, Treasurer, or other native officer, case to be committed to **S. J.** **EMBEZZLEMENT.**

S. 2. 3. II. 13. Con. 543. April 2, '30.

On commitment, a list of all documents for, or against, the prisoner, to be recorded.

C. 211. Octr. 28, '36.

Embezzlement a bailable offence.

Con. 1238. July 19, '39.

The provisions of II. 13. as to embezzlement, are still applicable to native officers in the commercial Departt. and are not influenced by IX. 29.

Con. 903. Octr. 3, '34.

When Native Officer is suspected of embezzlement, a summary enquiry should be made, and security required for his attendance; in default, to be put in custody of Peons, or in Civil Jail, until he give it, or his further detention be not necessary.

C. 2. S. 7. XVII. 17.

If proved, Officer to be required to pay into Court within a fixed time; on failure, the amount to be recovered from him and his security by the usual process.

C. 3. S. 7. XVII. 17.

Embezzlements, Loss of Treasure, Double payments, &c. &c. must be audited before they can be passed to account.

Feby. 25, '30.

EMBEZZLEMENT.

The case of a Peon on the establishment of a Govt. functionary, making away with money entrusted to, or collected by him, does not come within the meaning of II. 13. Such offences are to be considered as misdemeanors, and punishable as such under the genl. regns.

Con. 1200. Feby. 1, '39.

In case of embezzlement of money duly paid into, or deposited in Court, the European controlling authority should refund the amount to the owners from the Govt. Treasury, in the first instance, without reference to solvency of defaulter, or his surety, from whom Govt. will recover as well as it can.

S. 6. III. 27.

In embezzlement by officers of Judge's office, he should, after preliminary enquiry under S. 7. XVIII. 17. transmit his proceedings to M. who will commit or release, on his own judgment.

Con. 691. May 11, '32.

A Mohurrir of an Indigo Factory charged with Theft, was convicted of embezzlement in retaining a sum of money entrusted to him by his master, and also a letter containing a Bank-note which he had been directed to put into the post-office, and was sentenced to 2 years without labor, or irons.

N. A. R. IV. 152.

A Surberakar appointed under V. 12. may be prosecuted by Govt. for embezzlement of rents collected ; but the provisions of II. 13. are not applicable.

N. A. R. VI. 42.

EMIGRANTS.

EMIGRANTS.—Emigrant abusing the protection afforded him, by attempting to excite disturbances ; or whose residence may appear likely to cause misunderstanding, to be removed.

S. 2. XI. 12.

Emigrant re-entering his country to excite disturbance, to be committed to S. J.

S. 5. XI. 12.

Any person inducing, or aiding and abetting any native of India to emigrate as a laborer to any British or Foreign Colony without the territories of E. I. C. ; Fine of 200 Rs. for each native, in default 3 months.

S. 2. XIV. 39.

This does not apply to native seaman, or to menial servant.

S. 3. XIV. 39.

Act XIV. 39. is repealed so far as regards the emigration of natives from the ports of Calcutta, Madras, and Bombay to the Mauritius, British Guiana, Jamaica, and Trinidad.

S. 1. XV. 42. XXI. 44.

See " Demands for Refugees," " British Subjects."

For Evasion of Process, see " Absconding."

ESCAPE.—ESTABLISHMENTS.

ESCAPE.

ESCAPE of prisoners under examination, 6 months imprisonment.

C. 2. S. 5. XII. 18.

Escape of convicts; 30 bents, and 2 years.

C. 1. S. 5. XII. 18.

Such prisoners entitled to exemption from labour on payment of fine under C. 1. S. 3. II. 34.

Con. 1215. May 10, '39.

The 30 bents can, under S. 2. II. 34, be commuted to a year's imprisonment.

Con. 1184. Octr. 12, '38.

When the escape is attended with serious personal violence, the prisoner should be committed.

C. 3. S. 5. XII. 18.

Convict transported for life, returning;—Death. I. 28.

Even in case of continued repetition of escape, without violence, a prisoner cannot be committed, the punishment resting with M. alone under C. 1. S. 5. XII. 18.

Con. 501. April 16, '29.

When prisoners escape, Notification in annexed form, to be sent to Govt. Gazette, and Oordoo translation to translator. C. 105. March 4, '42. But such notices only to be sent, when reward of 100 Rs. or more may have been sanctioned for re-apprehension.

C. 132. Jany. 30, '43.

M. may offer reward of 50 Rs. for apprehension of escaped prisoner. In cases where it may be deemed expedient to offer a higher reward, the circumstances shall be reported for the orders of Govt. On emergency M. may discretionally offer reward of 100 Rs., reporting the offer for the confirmation of Govt.

C. 1072. Octr. 10, '44.

A prisoner convicted and sentenced by S. J. (but the case referred to N. A. in regard to other prisoners, and issue of warrant of S. J. postponed,) escaping;—to be punished by M.

Con. 1246. Augt. 23, '39.

ESTABLISHMENTS.

ESTABLISHMENTS, temporary, must be authorized by the Board. S. B. IV. Sec. X. The power of authorizing extends only to 6 months from date of sanction. If still required after the expiry of that period, they must be sanctioned by Govt., and if not so sanctioned, must be disallowed.

G. O. Augt. 21, '32.

ESTABLISHMENTS. Extra Establishments must be charged in separate bills, *not* in the regular abstract.
Manual. 50.

No man in Govt. employ should be entertained in another department, without the full acquiescence of his former chief.
S. B. IV. 87.

Para. 214. S. B. IV. cancelled, and Mofussil Establishments may in future be paid by Tuhseeldars from their own Treasuries, on warrants to that effect duly issued by Collectors.
S. B. April 28, '48.

Salaries of subordinates should not be altered by Collector, but be disbursed precisely in the manner sanctioned by Govt.
S. B. April 11, '48.

Savings from Salaries of Establishments on account of vacancies, or other causes, should be credited to Govt. under the same head as is charged with that establishment.
Manual. 50.

EUROPEANS. EUROPEANS, see "British Subject, European."

Europeans, *not* British subjects, amenable to Criminal Courts like natives of the country.
C. 1. S. 19. VI. 03.

EVASION. EVASION, see "Absconding," "Resistance," "Escape."

EXACTION. EXACTION, see "Summary Suits, No. 3," "Corruption," "Officers."
Exaction by manjees, and persons in charge of ferries, punishable under the Genl. Regns. and by dismissal.
C. 2. S. 4. VI. 19.

EVIDENCE. EVIDENCE, see "Commitment, No. 4." "Oaths," "Witnesses."

EXECUTION. EXECUTION of Convict, may take place where M. thinks most expedient.
C. 65. March 5, '10.

When execution is postponed, M. to return the original warrant, with a report of the circumstances of the case, and wait for the receipt of a second warrant, containing a definite date for carrying the postponed sentence into effect.
C. 305. Jany. 14, '25.

EXECUTION.

Certificate of execution shall include an announcement of the absence of any misadventure, from the breaking of a rope, or other causes; or, should any have occurred, a statement of its cause, of the party to whose fault it was owing, and of the steps taken in consequence. C. 99. Jany. 6, '42. Ordinary care is sufficient to prevent the painful scenes which sometimes occur. Gibbeting bodies prohibited.

C. 140. Novr. 1, '33.

Body must remain suspended for one hour at least, and it shall not even then be removed until death shall be ascertained to have taken place.

C. 6. Novr. 27, '48.

Money, new clothes, &c. &c. *not* to be given to criminals before execution. C. 177. Septr. 4, '44. If not possessed of decent clothes, they may have a suit, and cap; but no money, music, sweetmeats, or other indulgences.

C. 182. Septr. 27, '44.

Execution of Decrees of Civil Courts by Collector.

See "*Partition,*" "*Sale,*" "*Land Revenue, No. 7,*" "*Kharij Dakhil.*"

In the above cases, the Courts are required by law to refer to the Collectors the execution of their decrees. S. 6. VII. 25. further authorizes the Courts "to require the aid of the Collr. in the enforcement of Decrees whenever it may appear conducive to their speedy and complete execution; whether by giving possession to the parties entitled thereto; or by the adjustment of a Wasilat account, or otherwise." The S. D. A. in C. of Septr. 30, '36, have expressed their opinion of the expediency of the Judicial authorities availing themselves, so far as may be practicable, of this power; and they consider it obviously calculated to conduce to the speedy and satisfactory execution of Decrees regarding land. The Collr. is bound to yield a hearty and ready concurrence to whatever the Courts may require. The Judge is the person to determine whether Collr.'s agency is likely to be beneficial, and if the Judge does so determine, Collr. must obey.

To ensure the prompt attendance of Collr. to this branch of his duties, Quarterly Returns are made by the Civil Courts, in which the Collr. has to fill up the reasons for non-execution. When the Judge does not consider the Collr.'s explanation satisfactory, he excerpts (C. D. A. 817. May 1, '43) the questionable entry from the statement, and sends it to Commr., who will enquire into the cause of delay, and instruct Collr. in the course he should pursue.

Directions.

If the Decree-holder fail to comply with any requisition which is necessary to the execution of the decree, Collr. may strike the case off his file, and give the Civil Court intimation of his having done so.

S. D. A. June 16, '43.

Six weeks is the maximum period of delay.

S. D. A. Decr. 21, '38. Octr. 14, '43.

Collr. cannot demand to see Civil Court Records.

Con. 693. May 18, '32.

EXECUTION.

EXECUTION. If Collr. considers order of Civil Court illegal, he should nevertheless obey, appealing to superior authority.

Con. 1110. Octr. 20, '37. G. O. Novr. 21, '37.

The mode of working of the Civil Courts greatly affects the value of land, and thereby the interests of Govt. The prosperity of a district greatly depends on the manner in which Civil Justice is administered; and the Collector is therefore deeply interested in using his utmost endeavours to further its right and efficient administration.

Directions. 284. 286.

The strong establishments, and great influence of Collr. may also be most beneficially exerted in supporting the authority of the Courts. It is essential to good Government, that decrees when once passed, should be carried into effect as completely and speedily as possible.

Directions. 287.

The Collr. will therefore, whilst keeping himself informed of all material occurrences, dispose all his operations as much as possible to facilitate the administration of justice, and afford his zealous assistance whenever it may be needed. He will treat the orders of the Courts with perfect deference, and implicit obedience; but execute them with intelligence and discrimination. If the order appear to be founded on a misapprehension of facts, or to be inapplicable to the real circumstances of the case, and is open to re-consideration, he can submit his view for the Court's consideration, and await further orders; but when his view is over-ruled, he must immediately give way, and carry out the instructions he receives to the best of his ability. Captious opposition must be avoided as much as blind indifference.

Directions. 288.

All discussions regarding the relative powers of European officers, or animadversions upon points of a general nature, not immediately connected with the trial and decision of any case, should be conducted in English.

C D. A. April 18, '11.

All other communications with the Courts in the capacity of ministerial officer will be conducted by Collr. in the form of Vernacular proceedings. In such cases it is not necessary to petition through Govt. Pleader.

Directions. 289.

Collr. should always bear in mind that he will probably be a Judge himself in time, and that he now possesses a valuable opportunity of watching the effects of the judicial system, and learning its defects. This experience may suggest to him improvement, either in system, or in practice; and will make him a much better Judge for the agricultural community, than a mere technical lawyer. There is this great advantage in not having a completely separate judicial service; but probably 5 or 6 years as an Assist. Collr. would be sufficient; after which time the embryo Judge should com-

mence his technical education as Registrar to the Zillah Judge, an office which ought never to have been abolished. EXECUTION.

If Collr. omits, or refuses, to obey any order of Court, he may be fined by the Court from which the process issued; and if he does not pay the fine, the Court will report the circumstances to the G. G. in C., who, if he approves of the fine, will order it to be stopped from Collr.'s pay.

S. 39. XXVII. 03. S. D. A. April 16, '18.

Native Judges cannot fine Collr. for disobedience, and should report to Judge, who will take such steps as he may deem proper.

Con. 1193. Decr. 21, '38.

With advertence to the shortness of the period allowed under the existing law for the presentation of appeals in the Civil Courts, S. B. direct that whenever Collr. shall be of opinion that there is any legal difficulty, or objection, to the execution of an order received from a Civil Court, he shall immediately, instead of replying to the Court, report the circumstances for the orders of Commr., forwarding at the same time a draft of the appeal which he would propose to prefer to the superior Court.

Should Collr. see reason to apprehend that the time limited for an appeal will have elapsed before he can receive the orders of the Commr., he will at once present to the superior Court a formal petition of appeal, reserving the detailed statement of his objections until he shall have been furnished with Commissioner's instructions.

S. B. Jany. 3, '43.

EXTORTION, vide "Corruption," "Officers." EXTORTION.

Is punishable under the General Regulations. LIII. 03. IX. 07.

All Natives, *not* being Customs Officers, who may *exact* duties of any denomination, on any pretence whatever, shall be deemed guilty of extortion, and be liable to the same penalty as a Native Officer.

S. 39. IX. 10.

The word "exact" as used above, embraces actual collection, and not merely demand; but the demand is a misdemeanor, and punishable under the Regns.

Con. 76. Jany. 31, '11.

FARM, see "Land Revenue, No. 6." FARM.

FEES, see "Records," "Rent-roll," "Kharij Dakhil." FEES.

FERRIES, see "Roads and Road-fund," "Treasury, head Funds." FERRIES.

(1.) In assuming the management of public ferries, the general objects of M. shall be, the maintenance of an efficient police, the safety and convenience of tra-

FERRIES. vellers, the facility of commercial intercourse, and the expeditious transport of troops. For the above objects, they shall be careful to provide, or cause to be provided, safe and commodious boats, &c. &c.

(2.) No collections shall be taken on account of Govt. from the proceeds of any ferry, until the above objects are fully secured; and if in any case there shall remain a clear surplus profit, after providing adequately for those purposes, the amount collected shall be applied *solely* to the furtherance of similar objects, such as the repair, or construction, of roads, bridges, and drains, the erection of Serais, or other works of a like nature. (Has this engagement been kept?)

C. 1. 2. S. 7. VI. 19.

It having been brought to the knowledge of the M. A. that large sums realized from the proceeds of the Ferries, have been appropriated to objects unconnected therewith, instead of being applied to the provision of safe and commodious boats, and the general improvement of ferries, the M. will strictly observe C. 1. S. 7. VI. 19. before applying the funds to the distinct purposes enumerated in C. 2.

G. G. in C. May 12, '37. C. 10. Septr. 26, '28.

Public ferries subject to M. under control of Supt. of Police, to whom, and *not* to the S. J., all appeals lie.

C. 29. Augt. 23, '39. C. 39. Jany. 31, '40. Con. 1144, April 6, '38.

Troops, with their Military Stores and Baggage, and all Police and Native Officers of Govt. actually employed on the public service, to be passed over the public Ferries free of toll.

C. 3. S. 4. VI. 19.

Person in charge of Ferry may resign on giving 10 days' notice, and paying arrears; but his boats, if required, shall be transferred to his successor at a fair valuation.

S. 9. VI. 19.

Ferries ought not to be let out to the highest bidder, but on equitable principles. No individual should have more than one ferry, or for a longer period than a year, so as to prevent as much as possible any monopoly.

G. G. in C. Septr. 27, '31.

Security for good behaviour, as well as for payment, should be taken on plain paper.

Con. 1111. Augt. 21, '37.

Parties plying boats near Govt. ferry, in contravention of C. 1. S. 6. VI. 19. punishable for misdemeanor.

Con. 1305. Augt. 20, '41.

M. not generally to interfere with any other than public ferries; but where the Manjee of a ferry boat may have been guilty of great neglect, he is liable to fine of 200 Rs. or 6 months.

S. 13. VI. 19.

FETTERS—see "Irons."

FETTERS.

FINES, of Tuhseeldars, &c. &c. never to be credited to arrears of Revenue.

S. B. Augt. 12, '36.

FINES.

M. can *not* omit the fine, and sentence at once to the full periods of imprisonment authorized in lieu of fine by VIII. 28. and IX. 07.

Con. 774. March 29, '33.

Con. 959 as to S. J.'s power of fine being unlimited restricted to Bengal. The Agra N. A. consider that he has no power to fine at all. The power of legally fining will be given by a new Act.

C. 227. May 2, '46.

If *Regn.* is silent as to mode of levying fine, it should be commuted to imprisonment, under S. 19. IX. 07.

Con. 388. June 3, '25. 1150. May 11, '38.

In case of non-payment of fine imposed under an *Act*, if no other means for enforcing the payment are provided, M. may levy the amount by distress and sale of any goods and chattels of the offender. If goods not found, imprisonment with, or without labour, at the following rates of commutation; for 50 Rs. 2 months; for 100 Rs. 4 months; for 200 Rs. 6 months. When fine is paid, prisoner to be released.

(2.) Fine not to exceed 200 Rs. and the imprisonment 6 months.

Secs. 1. 2. II. 39.

This Act has nothing to do with fines inflicted under *Regulations*.

C. 23. May 6, '39.

Under the Press *Act* of XI. 35, it is imperative on M. to sentence any person convicted of a breach of that law to imprisonment in addition to fine; the fine, if not paid, to be realized under Act II. 39.

Con. 1325. March 11, '42.

Register of Fines to be kept, and be countersigned by M., Nazir, and Treasurer.

C. 4. Decr. 15, '37.

The Court of Directors have prohibited the creation and maintenance of unauthorized funds in the public offices, through the means of Fines or Deductions from pay of establishments; all such sums to be carried to the credit of Govt. C. 90. Octr. 8, '41. The L. G. is also of opinion that all separate accounts, which do not appear in the public statements and books, should be avoided; as likewise all unauthorized Funds.

Directions. 329.

It is absolutely necessary however that M. should have some small fund at his disposal; and it will generally be found that every active and efficient M. contrives to form one.

FINES. A little money is requisite to render convict labour really efficient. This object has now, (March 26, '49) been obtained, by the permission given (in G. O. quoted under "Prisoners I. 6.") to the Magistrate to spend on his own responsibility all money he can earn by prison labour. This, with the monthly sum allowed for stationery, ought to be sufficient, without appropriating Fines and Deductions from pay of establishments.

Statement of Fines, is designed to exhibit the Fines imposed, and realized, or otherwise disposed of during the month. It should clearly indicate the department to which the fines respectively belong, and to which they must be credited in the treasury account. The statement required from Judicial officers is similar in every respect.

Manual. 11.

See "Treasury, No. 8. Fines."

FIRES FIRES, accidental, not to be inquired into by the Police, unless charges of Arson be preferred to them.

C. 85. July 15, '31.

See "Arson."

FORCIBLE DISPOSSESSION. FORCIBLE DISPOSSESSION, see "Possession."

FORECLOSURE. FORECLOSURE.—When the holder of a Mortgage, or conditional sale, wishes to foreclose, he should, after in vain demanding payment from the borrower, apply by petition to the Judge, who shall furnish copy of it to the borrower, and notify to him, that if he does not redeem the property within one year, the mortgage will be finally foreclosed, and the conditional sale will become conclusive

S. 8. XVII. 06.

There ought to be a rule to compel the petitioner to give in the deed with his petition. The frauds under this Sec. are infinite; and the petition is often given in without any deed whatever being in existence.

FORGERY. FORGERY, of Money, Notes, or Stamps, to be committed to S. J.

S. 4. II. 07. S. 9. XVII. 17.

Persons fraudulently issuing fabricated Deeds, Stamps, Coin, or Notes; or clipping, filing, drilling, defacing, or debasing Govt. coin; to be committed to S. J.

S. 9. 10. XVII. 17.

Any person having in his possession any counterfeit coin, or stamp paper, without good and sufficient cause, to pay a fine equal to 4 times the nominal value; in default

to be imprisoned for 6 months. Half the fine, if paid, to go to the informer. The coins and stamps to be forwarded to Mint Master, and Supt. of Stamps, respectively.

S. 11. XVII. 17.

Fraudulent and injurious fabrication, or alteration, of any written deed, or printed paper of whatever description, as well as any counterfeit seal or signature thereto, and the illicit imitation of any stamp, as likewise the procuring of the above—to be considered Forgery, and committed to S. J.

C. 3. S. 4. II. 07.

Putwarree altering, falsifying, or mutilating accounts, or furnishing false, fabricated or mutilated copies, to be held guilty of Forgery.

S. 27. XII. 17.

Illegal alterations in, or changing of public records, by native officers, punishable as forgery under II. 07.

C. 57. Novr. 4, '09.

Police Darogah is bound to take up a charge of Forgery made before him on oath.

C. 303. Decr. 31, '24.

Calendar of Commitment in cases of Forgery, Embezzlement, &c. &c. should contain a list of all the written documents produced as evidence for, or against, the prisoner.

Con. 211. Octr. 28, '36.

In any Information, or Indictment, brought in the Courts established by Royal Charter, for Forging, or in any manner uttering any forged instrument or writing, it shall not be needed to set forth any exact copy thereof; but it shall be enough to describe such forged instrument in such manner as would sustain an indictment for stealing it.

XXII. 48.

"Knowingly issuing" not to subject offender to labour in irons.

Con. 899. Septr. 12, '34.

S. 4. III. 04. can be enforced by Civil Judges against any party who may abscond, being at the time under a charge of Forgery brought to light in the course of civil proceedings. The Judge will call upon M. to perform the acts described in S. 4. III. 04. and the correponding section of XX. 17. with a view to the apprehension of the absconding party; and M. will obey such requisitions, and proceed as he would do, were the absconder charged with a criminal offence in his Court. The principle of Para, 3. Con. 648. is declared applicable to attachments of property made under these orders.

C. May 17, '47.

Act I. 48.

1.—M. not to receive any charges of Forgery, or of procuring or causing Forgery, or of fraudulently issuing and publishing as true, or otherwise fraudulently giving

FORGERY. effect to, or attempting to give effect to, false and fabricated Deeds and Papers, knowing the same to be false and fabricated, which may be preferred by parties to Civil or Criminal cases, in respect to Deeds and Papers offered in evidence in such cases against the adverse parties to such cases, or other persons, except as provided in the next following Section.

2. In cases pending before any Civil, or Criminal Court (except the Court of the M. or of any officer exercising the Committing powers of M.) in which there may appear to the Court sufficient grounds for sending for investigation to M. a charge of any of the offences specified in Sec. 1. of this Act, the Court shall send the party or parties accused in custody to M., together with the evidence and documents relevant to the charge, and shall take a recognizance from each of the witnesses who have given such evidence, to appear before M., who shall thereupon receive such charge, and proceed with it in the usual course.

Nothing herein contained to affect the powers vested in S. J. in cases of Forgery by S. 6. II. 07.

5. For the purposes of this Act the expression "Civil Courts" shall be held to include all *Revenue* Officers acting judicially.

Act I. 48.

Commitment for Perjury, or Forgery, committed in a Civil Suit, without reference to the Civil Court in which it occurred, illegal.

N. A. R. III. 203.

These instructions are not intended to exclude from M.'s cognizance, criminal prosecutions for Forgery instituted irrespectively of proceedings in any Civil or Criminal Court.

C. 225. March 13, '46.

3 years for common Forgery, and 7 years for forging coin, stamps, or notes, the minimum sentence.

C. 2. S. 9. XVII. 17.

If S. J. thinks further remission necessary, he shall pass sentence as above, and refer to N. A.

C. 3. S. 9. XVII. 17.

There is no minimum for *uttering* Forgeries, and therefore no reference to N. A. required.

N. A. R. II. 244. 383.

The mere fact of filing a forged deed, the party filing it being interested in establishing its contents, is sufficient presumption that he uttered it, knowing it to be forged.

N. A. R. II. 454.

The having in possession Seals, bearing the impression of other individuals, is not an offence punishable under the Regns.

N. A. R. III. 153.

A charge of Forgery cannot be maintained unless the forced document be produced.

N. A. R. V. 112.

FORMS.—FRAUD.

FORMS.

FORMS. Circular of 19th Octr. 1844, No. 1806, applies only to the *first* indent for any form, which must be submitted for the N. A.'s sanction. When once approved, and the indent passed, application should be made direct to Suptt. of Press for supplies subsequently needed.

N. A. 981. July 9, '46.

All Forms and Statements to be provided in future by the Orphan Press at Secundra-Detailed Rules. The following Circulars give their application by the S. B. and S. D. A. and N. A. of this G. O.

G. O. May 22, '48.

All the Forms numbered. It is sufficient to state number of Form, and number required. No forms but those sanctioned will be allowed; but any officer is at liberty to propose new form if he can prove its necessity, and that there will be a general demand of at least 100 copies per annum.

In supercession of Circular of May 18, '47, indents of Collector are *not* now required to be half-yearly, but may be submitted whenever the stock in hand is nearly exhausted, or any urgent necessity exists for a fresh supply. Each indent must be countersigned by Commissioner, who should see that the quantity does not exceed the average expenditure for 6 months. The forms should be filed in a book.

S. B. March 24, '48.

1.—A complete set of the Forms sanctioned by the Sudder Court transmitted for reference.

2.—You will observe from the note at the foot of each Form, that the Forms have been consecutively numbered. In submitting indents, it will merely be necessary to state the number of each form required. The form of indent is as follows. (District—No. of Form—Number last applied for, and date of application—Expended during the last six months—Number in store—Number now indented for.)

3.—Any Officer can now be supplied with any number, however small, of the sanctioned Forms.

4.—No Forms but those sanctioned will be allowed without good and sufficient reason; but any officer is at liberty to propose the adoption of a new Form for the consideration of the Court.

5.—All Indents of Judges and Magistrates to be prepared on the 1st January, and 1st July, and are to be forwarded without loss of time; and no intermediate application for Lithographed forms will be attended to, unless under peculiar circumstances of emergency, which must be explained on each occasion.

6.—Each Indent must be attested by the Officer indenting; and care should be taken that it does not exceed the average expenditure for 6 months.

7.—The Forms should be filed in a book for reference.

8.—The Cons. of 7th Sept. 1846 and June 7, '47, are rescinded.

S. D. A. and N. A. Septr. 8, '48.

FRAUD.

FRAUD, or Cheating.—6 months with labour, and fine of 200 Rs. or 6 months more. Labour commutable. Aggravated cases committable, and punishable with 9 years.

S. 19. IX. 07. S. 2. LIII. 03.

FRAUD. Civil Judge not competent to commit for Fraud. He should transmit the case to M. for disposal, or commitment.

Con. 925. Jany. 9, '35. Con. 1221. May 31, '39. Con. 1225. June 14, '39.

Using short Weights, or Measures, that is, less than they profess to be, punishable as fraud by M.; but he is incompetent to prescribe a current standard of weights.

Con. 1274. March 27, '41.

FUNDS. FUNDS, see "Treasury, subordinate head of Funds." "Roads."

FURLOUGH. FURLOUGH.—Civilian going home on Furlough viâ Bombay will get certificate from Secretary to Govt. N. W. P., which he must deliver to Auditor at India House. He should report to Bengal and Agra Govt. the date on which he embarks from Bombay, his Furlough allowance commencing from that date.

Medical Certificates to obtain priority must distinctly specify that "a visit to Europe is indispensably necessary."

Civilian returning to India overland, will not be considered as having arrived within the Agra Presidency, until he reaches the limits subject to Lieut.-Govr.

G. O. March 23, '42.

Commr. when applying for the prescribed Certificate, required previous to embarking for Europe, must forward communications from his several Collectorships shewing in detail the several sums standing unadjusted against him in their respective accounts, or certifying that all the advances have been adjusted; also a Certificate from the Officer receiving charge explanatory of the measures already adopted, or in progress, for the adjustment of such sums.

Collr. to cite always dates of receipt, as well as amount, with the name of Commr., and purpose, and Department for which advanced.

Manual. 40.

No Civilian, or Officer who has at any time been in charge of a Treasury, is permitted to embark for Europe until he has obtained Certificates from the Accountant and Civil Auditor, that there are no demands against him, or has given security for the amount.

Manual. 53.

FUTWA. FUTWA, see "Judge No. 5." "Commitment No. 3."

GAMBLING. GAMBLING,— see "Magistrate I. 1. powers as to Persons."

All agreements, whether made in speaking, writing, or otherwise by way of gaming, or wagering, shall be null and void, and no suit shall be allowed in any Court of Law, or Equity, for recovering any sum of money, or valuable thing, alleged to be won on any wager, or entrusted to any person to abide the event of any game, or on which any wager is made.

XXI. 48.

GAZETTE.—GODNA.—GRANTS OF JUNGLE.

GAZETTE.

GAZETTE.—Each public Officer to have a copy.

G. O. Jany. 27, '41.

GODNA.

GODNA abolished by Act II. 49.

GRANTS of JUNGLE.

GRANTS OF JUNGLE.—These being confined to two districts, it is useless to give the voluminous orders in detail. The latest revised rules of G. O. Novr. 28, '48, are abridged as follows; but I do not think they will induce any sensible man to take land in Goruckpore. There seems no good reason why *small* plots of land should not be marked off, and leased out to natives, as in the Jungle Booreedee Mehal, without so much fuss, so many conditions, and such an intricate jummah. The speculation by Europeans on a large scale has almost universally failed.

REVISED RULES.

1.—Total area of any one Grant not to exceed 4000 acres.

2.—No grant will be made till the land has been surveyed and mapped, and until it has been determined how much of the area is culturable, and how much unculturable. The facts thus determined will not be open to future question by the grantee.

3.—The assessment will be levied on ¾ths of the culturable area included in the Grant. The unculturable and ¼th culturable area will be at the disposal of the Grantee during the period of the lease, if he fulfil the terms of the grant, and on the expiry of the lease the whole grant will be considered his property, to be held on the same terms as other land paying revenue to Govt.

5.—The rates leviable on each acre brought into cultivation will be the following—Annual increase of 31 Gundas (20 to the anna.)

3 Years Nil, 4th—3; 5th—4 11; 6th—6 2; 7th—7 13; 8th—9 4; 9th—10 15; 10th—12 6.

6th.—The demand at these rates from every 100 acres of land liable to assessment, namely, ¾ths of the culturable land, will be as follows:—

Nil—Nil—Nil—.15.; 2 5 15; 4 4 5; 6 10 10; 9 8 10; 12 14 5; 16 11 15; 20 9 5; 24 6 15; 28 4 5; 32 1 15; 35 15 5; 39 12 15; 43 10 5; 47 7 15; 51 5 5; 55 2 15; 59 0 5; 62 13 15; 66 11 5; 69 9 15; 72 0 10; 73 15 10; 75 6 15; 76 6 5; 76 14 0, to the end of 50th year.

4th.—This demand is fixed on the supposition that $\frac{1}{20}$ of the whole area liable to assessment, or in other words, $\frac{1}{20}$th of ¾ths of the culturable area, is brought into cultivation in each of the first 20 years, so that the maximum assessment will be reached in the 29th year. The Lease will be for 50 years.

7th.—The right of the public to roads in the Grant shall not be interfered with. Grantee to pay 1 per cent. Road Fund, but has not thereby any claim for maintenance of private roads in the Grant.

8th.—If no commencement be made to clear the land within the 1st year of the lease, the grant shall be void, and the land resumable by Govt., who may dispose of it as they think proper.

9th.—If ¼th of the whole assessable area be not cleared and cultivated within the first 5 years, the uncultivated portion of the grant shall be at the disposal of Govt.

GRANTS of JUNGLE.

and the Grantee be liable to a fine of 4 annas for every acre of the ¼th remaining uncultivated.

10th.—Ditto ½ in 10 years.

11th.—Ditto the whole assessable area in 20 years.

12th.—Such fines to be leviable from the cultivated portion, in the same way as any ordinary balance of revenue; but the person and other property of the grantee shall not be liable.

13.—Whenever, under Secs. 9, 10, 11, the uncultivated portion of a grant is at the disposal of Govt. and the grantee shall pay up the fine due from him, the cultivated land, with ½d as much again of culturable land, and any portion of *un*culturable land which Govt. may see fit to annex, shall be formed into a new grant, and left in the hands of the grantee. The terms on which this grant is to be held to be calculated according to the rates in Para. 5, on the supposition that equal portions of the cultivated area, had been brought into cultivation in each year of that period of the lease which had expired at the time of forfeiture. The Grant thus formed shall have its boundaries marked, and shall be surveyed and mapped as a separate Mehal settled for 50 years from date of original grant.

14.—In order to ascertain that the conditions in C. 8, 9, 10, 11, have been fulfilled, Govt. shall be at liberty at any time to measure the Grant, and if the stipulated portion of the assessable area is not then found to be cleared and cultivated, Govt. can enforce the penalties.

15.—The cultivated portions of all grants made under these rules will be considered Kalisah Mehals, and subject to all the conditions attaching by law to such tenures. The grantee will be considered as the proprietor of such Mehal, and subject to all the liabilities legally attaching to such persons.

16.—The grant is considered only as conveying a right to the land for the purposes of cultivation, and to all the products of the cultivated land, but as *not* giving a right of property in the spontaneous products of the land, or in the minerals which may lie upon, or beneath, the surface. Wherever any persons have been accustomed to use or consume these products, the grantee shall not interfere with them so long as they do not trespass upon or otherwise injure the cultivated portion of the land. Where no customary right to such products exists, Govt., if it does not require the products itself, will permit grantee to use or consume them, subject to such conditions as it may see fit to impose.

17.—For the preservation of the public peace, it shall be incumbent on the grantee to maintain a Chokeydar for every 60 houses, or families resident on the grant. Chokeydar to receive 5 acres of good cleared land, rent free, or a monthly money allowance of not less than 2 8.—For every 3 Chokeydars there shall also be maintained a Goreit with 3 acres, or 2 Rs. a month.

18.—It shall be incumbent on the Grantee to erect and maintain wholly or partly at his own expense, permanent land-marks showing the boundaries of the grant.

19.—Govt. reserves the right over all running streams of water.

20.—Grants of lands on the above terms, as they are applied for, will be put up to public competition, and will be assigned to the highest bidder, or to the applicant, without any premium being demanded, if there be no bid or offer made by another person.

The Form of Warrant includes the above conditions. G. O. Novr. 28, '48.

When Grants are allotted, each, as taken up and granted by Govt. will take its place on the Rent-roll under each name, as the owner may prefer. *Directions.* 205. When resigned, may probably need to be removed from the Rent-roll. *Directions.* 206. **GRANTS of JUNGLE.**

The Survey map is the basis of demarcation between a grant, and the neighbouring villages.

Commr. 5th Division. March 22, '48.

GUARDIANS, see "Wards, Court of." "Administrators." **GUARDIANS.**

HACKERIES—wilful neglect to fulfil engagements for, not cognizable under VII. 19. unless the hackery and cattle be the property of the driver engaging. **HACKERIES.**

C. 197. May 20, '36.

See "March of Troops." "Carts and Carriage."

HEIRS—see "Kharij Dakhil." **HEIRS.**

HIGHWAY ROBBERY—see "Robbery." "Dacoits." **HIGHWAY ROBBERY.**

HOLIDAYS.—M. not to allow more than the authorized holidays. **HOLIDAYS.**

C. 50. Feby. 26, '30.

During the Dusserah and Mohurrum vacations, the Sessions Court must never be closed for the despatch of *criminal* business, except on those days only, when a total cessation from all business is usual and necessary.

C. 8. March 2, '38.

[Why should the Judge's office be shut to *Civil* business, whilst it is open for *Criminal?* It appears to me that the long civil holidays are a great evil, and quite uncalled for. Let the Judge have a month's march round his district in December or January, to visit his Moonsiffs. It will do both him and them good; but let work go on. The long Dusserah vacation in September is useless to every one, as it is too hot and wet for the Judge to pick up health and vigor in tents, and it is an inconvenient season for the natives going to their homes. There seems no good and sufficient reason why the same rules should not apply to the Deewannee, as to the Foujdarree and Revenue departments.]

HOMICIDE.—The killing Thieves to be entered under "Homicide," with explanation. **HOMICIDE.**

C. May 7, '36.

No allowance made for killing a robber *after* he has been taken into safe custody. Such homicide incurs the penalty of wilful murder.

N. A. R. I. 249.

HOMICIDE.—INCEST.—INDIGO.

HOMICIDE. A person convicted of culpable homicide in killing a thief with a club, no resistance having been made, or any effort to seize him, was sentenced to 1 year!!

N. A. R. II. 392.

Two Burcundauzes killing a thief by repeated unnecessary sword wounds, were sentenced to 2 years each!!

N. A. R. II. 461.

See Skipwith "Homicide."

Person wounding, or killing, a proclaimed robber, for whose apprehension a reward may have been offered, in attempt to apprehend him, or immediately after the commission of a crime, or resisting attempt to perpetrate it; to be deemed guiltless.

S. 11. IX. 08.

Murder is the only homicide not bailable. M. should at first put person accused in custody, or require bail, as he may judge proper from circumstances. Afterwards, if murder is not established, the criminal shall be held to bail for appearance at Sessions, unless the homicide be accidental, or justifiable, when M. can release. Should M. entertain any doubts, he should apply to Law Officer for a Futwah.

S. 9. IX. 07. Con. 617. Decr. 30, '31.

Bail shall not be demanded from any person wounding or slaying murderers, robbers, or thieves, in his own defence, or in defence of his property.

C. 10. S. 25. XX. 17.

Weapon of death to be sent in to M.

C. 54. July 16, '30.

Person convicted of Shibeh umd, (culpable) Kutl khutta (accidental) Kutl kaim mukam ba Khutta (by misadventure) or Kutl ba subub, by S. J.;——7 years, and 2 for bents. Labour commutable.

S. 7. XVII. 17. S. 7. XII. 25.

HOUSE BREAKING, see "Burglary."

ILLEGITIMATE CHILDREN, see "Children."

INCEST. INCEST,—being an offence against Society, can be prosecuted on the part of Govt.

C. 4. S. 6. XVII. 17. Con. 865. Feby. 14, '34.

INDIGO. INDIGO,—C. 2. S. 5. VI. 23. repealed. (2.) Whenever the right to Indigo plant may be contested, and an order shall be passed under C. 9. S. 3. VI. 23. for the delivery of the Indigo plant to one of the parties claiming, such party shall not be allowed

to cut, or remove, the plant until he shall have given security to the satisfaction of the Court, to make good any claim that may be ultimately proved to such plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced. (3.) Person inducing Ryot to break contract for Indigo, liable jointly and severally with him for damages. (4.) Both Plff. and Deft. may be examined, if necessary; and Deft. may be awarded compensation for time and expense. (5.) Sudder Ameen competent to try such cases. INDIGO.

X. 39.

Persons damaging Indigo by allowing cattle to trespass thereon, or by any other means, shall be liable to fine and imprisonment under IX. 07.

S. 4. V. 30.

S. 2. 3. V. 30. allowing prosecution for penalty, and making neglect to cultivate indigo a misdemeanor, rescinded.

XVI. 35.

Summary suits to enforce the execution of written engagements for Indigo, under S. 6. VI. 23. not coming within the description of cases to which VIII. 31. was intended to apply, are not primarily cognizable by Collectors, but may be referred to them by Judges under S. 6. VI. 23.—but summary suits under S. 5. V. 30. by persons unwilling to renew their contracts, are cognizable only by Judge.

S. D. A. Novr. 20, '35.

Magt. can only interfere in indigo disputes, when they may come within the provisions of, and be cognizable under, XV. 24. The enquiry must be made, and final decision passed, by the Civil Court under VI. 23.

Con. 652. Augt. 5, '31. 661. Octr. 21, '31.

Gomashtah of Indigo planter, though he may have written a bond agreeing to make over money and accounts in his possession before leaving his situation, is neither a domestic servant, nor a workman, and cannot therefore be apprehended under VII. 19. The provisions of S. 20. VII. 1799. are equally inapplicable to the Gomashtahs and Mohurrirs of Indigo planters.

Con. 924. Jany. 23, '35.

INFORMERS, of unlawful possession of counterfeit *stamps* or *coin*; to receive half the fine. INFORMERS

S. 11. XVII. 17.

Do.—of breach of *Stamps laws* to receive half the fine.

C. 4. S. 13. XVI. 24.

Do.—of illicit manufacture, or sale, of *spirituous liquors;* half the fine. (C. 8.) And when a fine cannot, or may not be levied, informer to receive 10 Rs. on the part of Govt.

C. 9. S. 22. X. 13.

INFORMERS. Should the information appear malicious, or vexatious, the informer to be sentenced to pay 20 Rs. to the party aggrieved, or be confined for 15 days.

C. 6 S. 22. X. 13.

Informer of malicious *search* liable to 2 years with, or without, labour, and fine of 500 Rs. or 6 months. Also to civil damages.

S. 7. XXV. 40.

Informer against *police officers*, of conniving at illicit establishment of spirit shop; if false and malicious; 50 Rs. fine, or 15 days.

S. 14. VII. 24.

Informer of party fraudulently receiving *Pension;* to receive reward equivalent to the pension for 6 months.

S. 6. XI. 13.

On seizure of *Salt*, and conviction of offender, informer to receive 15 per cent. on value of salt; if only the salt is seized, 10 per cent.

S. 89. X. 19.

Informer of illicit Opium, see "Opium."

M. should not issue process against any accused person merely on the information of an Informer, but should take satisfactory evidence to the truth of the accusation. No criminal process, or any authority, should ever be entrusted to an Informer; and the utmost vigilance should be observed to prevent abuses in their employment. Any fixed allowances made to Informers, to be charged in M.'s contingent bill; but rewards for meritorious services performed by them, will come under S. 18. XVI. 10.

C. 93. July 18, '18.

INSANE. INSANE persons, to be forwarded to the Insane hospital of the division, when they should be accompanied by duplicate reports of their cases by the Surgeon who has attended them.

C. 82. May 13, '31.

Also by Descriptive Roll, with name, names of nearest relations, place of residence, village, purgunnah, zillah, caste, occupation or trade, age, list of articles sent with him, the circumstances which led to his being placed under restraint, and sent to Hospital; and a brief history of his case, to be supplied by the Surgeon who attended him.

C. 104. March 18, '42.

Whenever M. has occasion to notice insane prisoners in confinement in the zillah jail, he should state his reason for keeping them, and whether the Surgeon has objected to their going to Division Hospital.

C. 165. April 3, '35.

Insane Hospital under control of S. J.

C. 279. Novr. 21, '23.

INSANE.

Although the M. of Goruckpoor is permitted to erect an Insane Hospital attached to the Jail Hospital, yet he must attend to C. 165. and 307. It is only in particular cases in which the Surgeon may be of opinion that the Patient would become worse by removal, that M. is authorized to detain him under his own care. As a general rule all such patients should be sent to the Insane Hospital of the Division.

Letter of Govt. to Inspector. July 22, '47.

When a *European British subject* is found wandering about, and is deemed *insane*, M. shall have him examined by Surgeon; if on such examination, coupled with other proof, he is satisfied that he is dangerous, he shall send him under a proper guard, and warrant under seal and signature, with certificate of Surgeon, to Presidency Insane Asylum, securing the lunatic's property, and giving notice to any relation or friend of his in India. Any such relation forthcoming is competent to take charge of the lunatic and his property.

M. to sell by auction any personal property of lunatic, for payment of expenses, keeping an account, and remitting what may be needed elsewhere.

If no property, or friend, be found, charges to be paid by M. and included in his contingent bill, duly countersigned by S. J. M. will report each occasion of his acting under the above rules, to the Judicial Secy. of Govt.

C. 85. April 30, '41.

Criminal process to J. P. for Calcutta, to be forwarded in an envelope to Compy.'s Attorney, with letter according to form.

C. 185. Novr. 29, '44.

Trial of an insane person to be postponed, sending him with the case, to the S. J. who will send him to Insane hospital. When cured, he may be again brought before M. and put on his trial. A final acquittal on the ground of insanity at the time of committing crime, cannot be pronounced without regular trial; nor can a prisoner be put on his trial until in a state of mind sufficiently sane to admit of his plea and defence.

C. 307. Feby. 11, '25.

Report of acquittal of Insane, to be entered in Sessions Statement 8.

C. 201. April 25, '45.

For details of Insane Trials, see Beaufort, 30, 31, 32.

Deaf and Dumb, Beaufort, 31.

Act IV. 49.

1.—No person, who does an act which, if done by a person of sound mind, is an offence, shall be acquitted of such an offence for unsoundness of mind, unless the Court, or Jury, as the case may be, in which the power of conviction, or acquittal is vested, shall find that by reason of unsoundness of mind not wilfully caused by himself, he was unconscious, and incapable of knowing at the time of doing the said act, that he was doing an act forbidden by the Law.

2.—Whenever a person is acquitted because he is within the foregoing exception, the Court, or Jury, shall give a special judgment, or verdict, that he did the act

INSANE. charged against him being then of unsound mind, so as to excuse him according to Law.

3.—On giving such special judgment, Court shall order the person to be kept in safe custody, in such place and manner as may seem fit, until the pleasure of Govt. is known.

4.—Persons acquitted before the passing of this Act, on the ground of unsoundness of mind, may be kept in the same strict custody as persons to be hereafter acquitted for unsoundness.

5.—No person against whom such special judgment shall have been given, shall be entitled to be discharged out of custody, on being restored to soundness of mind, unless by order and at the discretion of Govt.

6.—Whenever it may appear to Govt. that a sentenced prisoner is of unsound mind, it may order his removal to a Lunatic Asylum; and, when cured, can remand him back to prison.

IV. 49.

Circular 233, 62, 183, rescinded, and 307 modified. Whenever a person may be acquitted of any offence under S. 1. IV. 49. the Court shall order the prisoner to be kept in safe custody until the pleasure of Govt. shall be known, and shall immediately report the result of the trial to the Secy. to Govt. Judicial Depart. and apply for the requisite instructions regarding the disposal of the prisoner. S. J. will communicate direct with Govt. on this subject; and M. through the S. J.

C. N. A. Septr. 7, '49.

In the case of a prisoner standing mute, it is not sufficient that Surgeon be examined as to his sanity, or otherwise, but the cause of his so standing mute should, if possible be ascertained.

N. A. R. II. 416.

INTEREST. INTEREST, restriction against a judgment for interest exceeding the amount of principal, not applicable when the accumulation is subsequent to the institution of the suit.

C. D. A. Decr. 19, '23.

Interest upon Govt. securities payable in N. W. P.

184. Jany. 26, '11.

Four per cent. interest to be paid on bills of exchange not punctually paid for want of funds.

A. R. D. 487. May 31, '34.

If the delay in realizing amount of decree be not owing to default of decree-holder, he is entitled to interest from date of decree till amount be paid.

Con. 690. May 4, '32.

When costs of suit are included in the decree, they will bear interest also, from date of decree.

Con. 715. Septr. 7, '32.

INTOXICATION.—IRONS.

INTOXICATION, is punishable by M. under the General Regn. IX. 07. INTOXICATION.

Intoxication no plea for mitigation of punishment.

N. A. R. I. 247.

IRONS of Prisoners, not to exceed 1½ seers, of 80 siccas; and they should be of a light and uniform construction. But wilful disobedience, refractory behaviour, or attempt at escape, may be punished by bents and solitary confinement; by heavy irons; by the temporary addition of neckchains of a moderate weight; and, in aggravated cases of violence, by the further restraint of handcuffs, whilst such restraint, which is never to be imposed without necessity, shall appear to be requisite for the safe guard of the prisoner, or to prevent his doing mischief to others. IRONS.

C. 3. S. 6. XIV. 16.

M. may cause lighter fetters to be used whenever it shall appear safe and proper with reference to prisoner's age, size, strength, state of health, or to his general behaviour and character. Heavier chains may also be used in cases of attempt to escape, or disorderly conduct, under S. 6. XIV. 16.

C. 207. Augt. 20, '18.

Where N. A. or S. J. have given no special orders about irons, M. can exercise his discretion.

Con. 122. March 11, '13.

M. not to impose fetters in misdemeanors, except on necessity from the bad conduct of the offender during imprisonment, which may render such restraint indispensable for security.

C. 224. Augt. 27, '19.

Care to be taken that the irons are kept quite clean, and free from rust. Chains may be substituted for the long iron links.

C. 95. March 9, '32.

Irons not to be imposed on Female Convicts.

S. 2. XII. 25. C. 31. Octr. 11, '39.

Prisoners sent by water, not to have handcuffs and neckchains without necessity.

C. 161. Feby. 24, '16.

Prisoners committed to Sessions for Burglary, may be confined in irons, should it appear necessary for their safe custody.

C. 210. Novr. 19, '18. C. 206. July 23, '18.

M. to record his reasons for putting prisoners in irons before trial, whenever he may resort to this measure; and never to do so unless indispensably necessary.

C. 32. July 24, '29.

JAIL.

JAIL, see "Prisoners." "Irons."

S. J. to visit Jail once a month, and to submit to Govt. when forwarding the periodical Statements of M., or immediately in urgent cases, his own remarks on the condition of the Jails, and of the Prisoners.

C. 1072, Octr. 10, '44. C. July 7, '37.

S. J. may take his armed retainers into Jail.

C. 229. Jany. 14, '20.

S. J. vested with control and superintendence of Jail, and all periodical Statements connected with the Jail, should be transmitted to Govt. through him.

C. 1072. Octr. 10, '44. XXIV. 37. Con. 1198. Jany. 11, '39. C. 9. May 25, '38.

But is not authorized to issue orders direct to subordinate Jail officers regarding management of Jail, except in cases of most urgent necessity.

Con. 746. Decr. 28, '32. 909. Octr. 17, '34.

Whenever from heat of weather, and the crowded state of Jail, it may appear to M. seriously objectionable to adhere strictly to the rule of locking up all the prisoners in the wards, he may allow petty prisoners to sleep in the yard, adopting precautions for safe custody.

C. 205. July 18, '18. C. 145. March 1, '15.

The close confinement of prisoners in their wards at night, should, so far as may be consistent with safe custody, be restricted to those under reference to N. A. convicts sentenced to perpetual imprisonment, and others of notoriously bad character.

C. 205. July 16, '18.

Openings, as ventilators, should be made in the roofs of all Jail buildings.

Inspector. Septr. 27, '49.

With a view to guard against the possibility of Fire, when convicts are employed on the roads, and confined at night in a hut, or tent; no more than 10, or at the utmost 20, should be secured on the same chain passing through the ring of the fetters. The huts should have sufficient doors for their speedy egress in case of fire, and the lamps be contained in lanterns. C. 183. April 30, '17. No hookahs should be allowed at night.

C. 258. June 28, '22.

[Let me beseech careful attention to this rule. Burcundauzes and prisoners are very careless and reckless; the lights are seldom properly guarded; and the prisoners are not unfrequently allowed to smoke. Where a gang is settled for a long time at a large work, such as building a bridge, they are very apt to hut themselves comfortably, with plenty of straw on the ground. I have known a hut containing 50 prisoners, take fire under such circumstances. The blaze was so great and sudden that the burcundauzes on guard at the ends of the chain outside, were unable to undo them, or tear up the pegs; and the consequence was, that the greater number of the prisoners

were most fearfully burnt. Many died of locked jaw; and many more were crippled for life. Any one who witnessed the fearful sight which met my eyes when I went out to do what I could for the poor fellows, would ever after be careful of fire in the cantonments of outlying gangs. I may here notice, that there being no Surgeon at Azimgurh at the time, I applied lime-water, and freshly teased cotton, to the burns. Dr. A. Vans Dunlop, who with the utmost promptitude and kindness; came over from Juanpoor to my aid, continued the treatment, with a large quantity of laudanum made on the spot, internally. The loose cotton flakes are, I believe, one of the best applications for extensive burns, or scalds.]

When there is an excess of Prisoners, S. J. may direct construction of temporary buildings for the supernumeraries, who should be those not exceeding 6 months. Every such occasion to be reported.

C. 74. Decr. 11, '40.

Inspector prefers Jomprees to Tents.

Septr. 27, '49.

Tank 120 feet square, by 10 deep, outside the wall, for the prisoners to wash in, suggested by Govt. C. 161. April 19, '44. (Not half large enough. It would be a filthy nuisance in a very short time.)

Jail wards to be white-washed once every quarter, and oftener if necessary, on the written application of M. to Engineer.

C. 167. May 21, '44.

Clarke's letter and plan of Mills, C. 744. June 10, '42. (I do not think that Mills answer, and much prefer the common bazaar grindstones, worked by 2 prisoners, who are forced to grind a certain quantity of grain properly every day. In the mills, it is very difficult to keep all the prisoners to the collar; there is more noise, and a smaller outturn of flour: and the machinery is very apt, either accidentally, or wilfully, to go out of order. More *punishment* is required to keep a mill in good order, than when each pair of convicts sits apart with a grindstone to themselves.)

The Superintendence of Jails taken from Commr. and N. A. and made over to Judge, under the Local Govt. to which all correspondence should be addressed direct.

XVIII. 44. C. 180. Septr. 20, '44.

New Rules.

Para. 2.—To prevent the over crowding of the wards, an English and Vernacular Register No. 12 to be kept, giving the cubic capacity of each ward, and the number of prisoners it is capable of containing. Special care must be taken that no ward contain a greater number of prisoners than its fixed capacity, calculated at 400 cubic feet to each prisoner.

3.—Whenever the number of prisoners exceeds the fixed capacity of the Jail, M. is authorized to locate them without delay either in tents, or sheds, within the yards, or in the working sheds attached to the Jail, or in any available Public building, and during the hot season to allow all, or at least one half the prisoners, to sleep in the open yards, securing the Prisoners at night, if necessary, with an iron chain, according to his discretion.

JAIL.

4.—If none of these measures can be adopted, it will be necessary under the orders of Govt. to transfer the prisoners in excess to another Jail.

5.—Previous to the occupation by prisoners of any building, its cubic contents must be carefully ascertained, and the number of prisoners it is capable of holding entered in Register No. 12.

6.—Every patient of a Hospital should invariably be allowed 600 cubic feet; and every prisoner occupying a separate cell 1365 feet.

7.—Ventilators to be opened in the roofs, and plenty of doors in the sides.

8.—All covered and enclosed necessaries to be removed, and the Model Drain substituted. Earthen Nands may also be used as a make-shift.

9.—All night sinks inside wards to be removed, and earthen pots supplied instead. Where the general security of the Jail will allow of it, prisoners may be permitted to go into the open yard at night.

10.—All drains and open cess-pools within, or without, the Jail to be filled up. Large wells should be sunk, at a distance of not less than 200 feet, on the South or North sides of the Jail, into which will be thrown through a man hole of 2 feet in diameter, all the dirt and sweepings of the Jail.

11.—Care should be taken to keep the mouth of these wells a foot or two above the flood level, and at all times carefully closed up by a cover to prevent the escape of the effluvia.

12.—No drain should be allowed to run into these wells, which, when filled, should be closed with mortar, and another well opened.

13.—For more speedy decomposition, 30 or 40 seers of commonest salt, or fresh *unslaked* lime, may be thrown into the pool as soon as it is filled.

14.—With such cess-pools, there will be no necessity for drains, or sinks.

15.—The accumulation of filthy rags, dirty beddings, pots, and pans, on the floor of the wards, which cannot in consequence be properly swept, much less washed, or leeped, and the non-enforcement of the desirable rule that every prisoner shall be shaved, and his person and clothes washed at least once a week, are among the most fertile causes of disease.

16 to 21, see "Prisoners No. 3. Dress."

22.—The floor of every ward should be *leeped* frequently, and the walls leeped to the height of 6 feet. No charge on account of *white washing* will be authorized in future without previous sanction.

23 to 28, see "Prisoners No. 2. Diet."

29.—Every sentenced prisoner should be examined by Surgeon at the time of his daily visit, who will state, as briefly as possible, in the last column of Register of Admission No. 3. the apparent state of the prisoner's health. If it should appear necessary that the prisoner be treated differently with respect to Diet, or Labour, from the general usage of the prison, the Surgeon will add directions to this effect, fixing a term for such treatment, on the expiration of which the prisoner will again be brought up for examination and further orders.

30.—The Surgeon will also inspect once a week, at uncertain intervals, by day or night, all the Jail wards, cells, and yards, grain, and food, informing himself of the number of occupants of each ward, reporting on the reverse of the monthly casualty statement, and appending such remarks as he may deem necessary, removing such prisoners as may require his aid to the Hospital or Infirm Gang, and immediately

calling the attention of the M. either by letter or in the order book of the Jail, to any irregularity that may have come to his notice. JAIL.

33.—Every outlying Gang should be visited by the Surgeon once a month, or by the Native Doctor once a week, or be brought into the Station for inspection on the last day of every month. The Surgeon to report date of inspection.

34.—No prisoners should remain in the hospital of an outlying gang more than 48 hours, when, at the discretion of the medical attendant, the sick should be forwarded to the Jail Hospital.

35.—On Sunday morning the Burcundauzes will all attend as usual, and be mustered at the inspection parade of the prisoners, when the Darogah will examine every prisoner, and certify to M. in a book as follows :

1st.—That the irons of every Prisoner are secure, and clean; if not, that they have been made so.

2nd.—That every working prisoner in irons has a pair of leather gaiters.

3rd.—That he has his numerical ticket.

4th.—His authorized quota of cooking utensils, clothing, and bedding; and that they are clean and in good order.

5th.—His head and face shaved, with the discretionary exceptions.

36.—The Native Doctor will report that he has examined every prisoner, and that he has withdrawn every one either sick, weak, wounded with irons, or affected with scurvy, for admission into Hospital, or Infirm Gang, as Surgeon may deem expedient.

37.—A list of such prisoners, and of such as may have transgressed these rules, will be presented on Monday morning to Surgeon and M. respectively, for such orders as they may deem necessary.

38.—No Foujdarry Officer to have any thing to do with the Jail, but the Darogah to be held responsible for the purchase and supply of food, and other articles of consumption according to sealed samples under specific conditions of length, breadth, and weight, as the case may be.

Inspector. C. 5. July 1, '47.

Travelling allowance at the rate of 2 annas a mile, to be given to Native Doctor visiting Outlying Gangs, on Bill in accompanying form duly countersigned by Surgeon; to be charged under "Hospital Charges" in the Jail Contingent Bill, the original bill being sent as voucher.

Rs. 14 to Native Doctor of outlying gang has also been sanctioned, to be charged as "Contingent Establishment."

Inspector. C. 7. Septr. 29, '47.

Two or more outlying gangs, amounting in the aggregate to 200 men, when 10 miles from Station, may have a native Doctor attached.

Inspector, Para. 3. Septr. 30, '48.

The old iron of irons and tools, to be sold.

Inspector. Septr. 27, '49.

Jail Guard.

Para. 3.—Jail Guards to be established; 4 men to each sentry; and ½ of the whole over and above as a reserve, and for drill.

JAIL.

JAIL.

1 Duffudar for every 25 men, and for every Jail a Jemadar and Naib.

5.—The pay as follows: Sepoys 5 Rs. Duffudars 8, Naib 12, Jemadar 16.

(This pay is not sufficient for the higher ranks. In Gorruckpoor the Jemadar's pay has been increased to 30 Rs. with title of Soobadar, and the Naib's in proportion.)

No sepoy to receive more than 4 Rs. till he is perfect in his drill.

6.—Rs. 2 per man per annum allowed for uniform, the amount to be drawn in a contingent bill. Inspector will see that it is *faithfully* and judiciously expended.

7.—M. will once in the year indent through inspector on the nearest Magazine for such Arms and Accoutrements, as may be absolutely necessary. The cost to be charged against the Jails, and be kept as low as possible.

30 ball and 80 blank cartridges, to be annually allowed to each man.

9.—The Arms can be mended at the Jail Forge; but any necessary contingent charge may be incurred.

10.—The ½ of the Guard off duty must be regularly drilled, either by their own officers, or by Drill Instructors from the Line, who will receive marching batta, to be charged in the Contingent Bill.

11.—The men should be taught the Manual and Platoon, and simple maneuvres, with target practice to the extent of their cartridges. Steadiness in firing *low*, and the mode of acting in this respect when employed against a Mob, as explained in the enclosure of Mr. Elliot's letter, should be particularly insisted upon.

12.—Major Steel's Code to be followed so far as applicable.

13.—The Jail Guard is in every respect entirely subordinate to the Inspector.

His instructions regarding entertainment, discharge, and promotion, to be followed.

G. O. July 15, '47.

Para. 397 of Constabulary rules, forwarded with G. G.'s letter of June 30, '47.

"Whenever the necessity of firing unfortunately arises, it ought to be at the Leaders of a Riot, on the assailants of the Police, and *with effect*. Firing over the heads of Mobs must *not* be allowed; as such a fire, (even if it does not hit innocent persons at a distance,) would give confidence to the daring and the guilty."

No extra night Guards to be entertained for outlying Gangs.

G. O. July 7, '34. Inspector. Novr. 23, '47.

For an Outlying Gang of not less than 200 prisoners, there should be 1 Jemadar on 15 Rs.; 1 Duffudar to every 15 burcundauzes; 1 Burcundauze to every 4 prisoners as a day and night guard, a certain portion of the guard to be specially employed for night guard, and exempted from ordinary day duties; but the whole guard kept at night within call.

G. O. June 2, '34.

Travelling Allowance to Doctors, Batta to Jail Guard for transporting prisoners, Diet of Hajut Tujveez, and Rewards for recapture of prisoners, to be included in Jail Contingent Bill.

Inspector. C. 9. Decr. 6, '47.

Inspector to be kept duly informed of mutations in Jail Guard.

Inspector. C. 10. Decr. 30, '47.

JAIL.

For detailed rules as to Prisoners under charge of Executive Officers, see printed G. O. of June, 2, '34. circulated March 1848. JAIL.

Jail Accounts.

The Collector should incorporate into his monthly Treasury Accounts the exhibits made by M. in his Memo. for the same Month, and open a *plus* and *minus* Memo. at the foot of his Account Current to shew at one view the accumulating surplus available for the public objects on which prison labour is employed. As the expenditure under this head will be limited by the receipts, charges in excess of receipts will be of rare occurrence, and must be guarded against. When they do occur, they should be held in the Inefficient Balance against M., and recovered from the nett receipts.

Particular attention must be given to the mode of gradually adjusting advances, taken up by M. either upon his own responsibility, or under the sanction of the Inspector N. W. P.

Acct. March, 26, '49.

Para 2.—All the monetary transactions of each month connected with Prison Labour, must be entered in the Collr.'s Treasury Account for the same month, under the head "Prison Labour," subordinate to "Judicial Charges General," shewing as receipts all sums received for, or to be credited to, that head; such as monies realized by sale of manufactured articles, old materials, &c. &c. Also the cost of articles supplied from the manufactories for the use of Prisoners, *not* including the labour of Prisoners incurred in their preparation, included in your contingent bill for debit under Diet, Clothing, Repairs to Buildings, &c. &c. per contra must be shewn as Disbursements, the Cost Price of Raw Materials, with all other charges connected with the formation, and working of the Manufactories, in which P. L. is employed. M. will make over to Collr.'s Treasury, the nett amount of *Cash*, i. e. the amount of receipts in excess of disbursements, in hand at the end of each month, together with a Memo. shewing in a condensed form the receipts and disbursements of the month on account of *each* of the heads, or manufactories, in which the P. L. is employed in the Jail, whether paper, cloth, carpets, or other Manufactory, or grinding Wheat, or whatever else may be the nature of the work pursued, as they may be found detailed in the Jailer's Cash Account No. 3, taking care that a correspondence is maintained between this Memo. and the Jailer's Cash Account.

Para 3.—In regard to any advance which you may take up from Collr.'s Treasury, either under sanction of the Inspector, or on your own responsibility under Rule 5., such advance must be held in Collr.'s J. B. at the responsibility of J. P. or of M. as the case may be, until adjusted. As the advance is laid out in the purchase of raw materials, tools, &c. &c., and is, with cost of articles manufactured as Charges against P. L. the amount charged should go to the reduction of the advance. No fresh advance must be taken before the previous one is entirely adjusted, without sanction of Govt. previously obtained.

Acct. March 26, '49.

JAIL.—JOINT MAGISTRATE.

JAIL.

GOVERNMENT RULES.

1.—*Actual transactions only* are to be shown in any account, and all cash receipts and disbursements are to be included in the Treasury Account under head of Prison Labour, subordinate to Judicial Charges General. *No separate or private Fund can be allowed.*

2.—No charge whatever to be made to Govt. for the labour of Prisoners; and whenever that labour is expended in the manufacture of articles required for the use of the Prisoners, or for works on which Prisoners are usually employed, such articles shall be charged to Govt. at the cost price of the raw materials, after audit in a contingent bill. Whenever, as in the case of country stationary, the article is furnished to Govt. on a fixed allowance which is of the nature of a contract, the whole market price of the manufactured articles may be charged against the fixed allowance.

3.—All sums received from the sale of manufactured articles to other parties than the Govt. must be credited in the Treasury Account; and M. will be allowed to charge per contra *on his own responsibility* and disbursements for the use of the prisoners, or to further the public objects on which the prisoners are employed, or for the purchase of raw materials required for the manufacture of articles intended for sale, the expenditure under this head being limited by the receipts.

4.—When raw materials previously purchased and charged to the head of Prison labour, are manufactured into articles for the prisoners, the actual cost must be charged in the proper contingent bill under the appropriate heading of Diet, Clothing, Repairs to Buildings, &c. &c. The amount, when audited, will be recharged under its appropriate heading, and credited per contra to Prison Labour.

5.—Whenever funds are required for the purchase of raw materials, or implements of of labor, in order to commence any manufacture in a Jail, an Advance for this purpose, not exceeding Rs. 500, may be sanctioned by Inspector, and placed in Inefficient Balance on his responsibility; or the advance may be made from J. B. on M.'s personal responsibility.

6.—Besides entering the cash transactions in a condensed form, in the Treasury Account, every M. must keep 3 sets of accounts, copies of which are annexed, to shew the Receipts, Expenditure, and Balance of

Ist. the Raw Materials.
IInd. the Manufactured Articles, &c. &c.
IIIrd. the Cash.

7.—Copies, or extracts, from these accounts must half yearly be furnished to the Inspector; which the aggregate, and result, must be checked by a reference to the Treasury Account.

JOINT MAGISTRATE.

JOINT MAGISTRATE, powers the same as those of magistrate, and the same rules hold good as to Appeals, &c. &c.

See "Appeals"—"Magistrate III. 9."

JUDGE OF SESSIONS.

JUDGE OF SESSIONS.

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1.—CORRESPONDENCE AND OFFICE.

S. J. to be furnished by M. with any information he may require; and is at liberty to inspect M.'s correspondence.

C. 5. July 18, '28.

S. J. to address all warrants to the chief magisterial authority in the district.

Con. 847. Decr. 13, '33.

Copies of correspondence between M. and S. J. on the state of the district, or mode of conducting business in M.'s office, to be submitted to N. A.

C. 277. June 6, '23.

S. J. to report to N. A. misconduct, or disobedience of M.

S. 63. IX. 1793. C. 233. May 19, '37.

S. J. to submit to N. A. such new rules for regulation of trials, administration of Justice, or Police, of the country, as he thinks needed.

S. 65. IX. 1793. S. 33. VII. 03. C. 98. June 27, '42.

S. J. to furnish Supt. of Police with extracts of reports to N. A. relating to state of Police, with copies of statements.

C. 3. May 16, '28. C. 243. May 4, '21. 251. April 27, '22. 324. April 20, '27.

Head Clerks may be allowed to attest copies, &c. &c. after their correctness has been previously attested by Sirishtadar.

C. 91. Augt. 25, '41. C. 3. May 16, '28.

S. J. applying for leave of absence, to conform strictly to C. S. D. A. No. 25. Jany. 4th, 1811, by sending statement of business pending in all departts.

C. 202. July 22, '36.

Before going away, S. J. to prepare the Statements, or certify to relieving officer the cause of his inability to do so.

C. 193. Feby. 12, '36.

S. J. to apply for leave of absence direct to judicial Secretary of Govt.

C. 134. April 27, '43.

Oath of S. J.—S. 3. VII. 31. Beaufort, Page 136.

JUDGE OF SESSIONS. CORRESPONDENCE and OFFICE.

In forwarding explanation from M., the S. J. shall invariably state whether he considers it satisfactory, or otherwise.

C. 219. Jany. 27, '37.

S. J. not to close his Court during the Dusserah or Mohurrum holidays, except on those days only when a total cessation from business is usual and necessary.

C. 8. March 23, '38.

S. J. in referring trials for final orders of N. A. will insert in the marginal note prescribed by P. 10. C. 54. July 16, '30. the names of those prisoners only, in regard to whom the reference is made, and send the portions of the record which regard them.

C. 228. May 16, '46.

Whenever S. J. shall have been unable for a period exceeding one month, either from absence, illness, or other cause, to perform his duties, the Commr. shall hold a Jail Delivery without any previous reference either to N. A. or Govt.

C. 2. S. 13. VII. 31.

Whenever S. J. may be unable to hold a Sessions for one month, he shall inform N. A. to enable them to make such arrangements as the emergency may appear to demand.

C. 115. Augt. 3. '32. C. 7. Feby. 2. '38.

In submitting statements in which reference is made to result of former Sessions, S. J. should insert such part of his remarks on the former trial, as may render a reference to it unnecessary. (It is a good general rule, that every letter should, so far as is possible, be complete in itself, without turning up other papers.)

C. 124. Novr. 2. '32.

Assistant, or Officer in charge of Office of Judge should confine himself to the exercise of such part of the powers of the Judge, as may be indispensably necessary, for the immediate execution of the orders of N. A. for the issue of warrants under sentences of N. A. making returns to such warrants, and the transmission to N. A. of the proceedings in Criminal trials, as for such other cases of emergency, as will not admit of delay.

C. 159. Feby. 6, '35.

In all cases of Trials held out of the ordinary course of law, S. J. shall record on the trial the original documents authorizing the course adopted, and shall notice the same in his letter should the trial be referred to N. A.

Para. 23. C. 54. July 16, '30.

2.—COMMITMENTS.

COMMITMENTS.

S. J. to try cases immediately after commitment.

C. 108. June 22, '33.

When S. J. has been prevented from holding Sessions by sickness, &c. &c. for one

month, he is to inform the Commr. in N. W. P. or N. A in Lower Provinces, with a view to some arrangement.

JUDGE OF SESSIONS. COMMITMENTS

C. 115. Augt. 3, '32. and C. 7. Feby. 2, '38.

S J. cannot try a case committed by himself. S. 6. IV. 23—or one in which he has been previously concerned.

N. A. R. 334. V. 3.

But he may try prisoner committed by M. on his own discretion, in a case sent to M. by himself as Civil J. to dispose of according to his own judgment. Con. 975. Augt. 7, '35. Ditto Appeal under the same circumstances.

Con. 1038.

When S. J. cannot try a Commitment from having been concerned in the case, he is to report to Govt. for special provision for trial, stating the neighbouring tribunal to which it can most conveniently be referred.

C. 17. July 14, '37.

Trial of cases committed before vacation, to be tried during vacation, the Court being only closed for criminal business on those days, when total cessation from business is usual and necessary.

C. 141. Novr. 22, '33. and C. 8. March 2, '38.

S. J. cannot try a case committed by himself as Civil J.

Con. 691. May 11, '32. C. 169. V. 2.

In case committed, should Prosecutor and Witnesses not attend, case should be postponed in the spirit of S. 17. VII. 03. and M. be instructed to adopt every practicable measure for causing their attendance. After a reasonable time, the trial should be brought on, and the prisoner discharged with or without security, as may appear proper from M.'s proceedings.

Cons. 200. March 29, '15. and 256. Augt. 21, '16.

No criminal trial shall be postponed by S. J. beyond the Sessions of Jail Delivery which may be held next after the expiration of the period of 6 months from the date of Commitment, except for special reasons, which should be submitted for the orders of N. A.

C. 132. Jany. 18, '33.

S. J. invariably to recommend that prisoners for life be transported beyond sea.

C. 18. 42.

3.—POWERS. See "Magistrate III. 3." "Commitment VIII."

POWERS.

S. J. has power as to distribution of Commission on property recovered.

Con. 727. Octr. 26, '32. Con. 1186. March 9, '38.

S. J. is competent under S. 2. VII. 31. to require persons acquitted by him of the specific charge on which they were tried, to furnish security for good behaviour, on

JUDGE OF SESSIONS. POWERS.

proof that they are notorious robbers of desperate character, whom it would be dangerous to release.

Con. 823. Augt. 30, '33.

S. J. has control over the employment of convicts instead of Suptt. of Police. He hould, however, communicate with Commr.

S. 20. XVII. 16. C. 14. July 27, '38. C. 15. Novr. 2, '38.

S. J. vested with control and superintendence of Jail, which he ought to visit, and forward Reports for better treatment and accommodation of Prisoners.

XXIV. 37. C. 9. May 25, '38. Con. 1198. Jany. 25, '39.
G. C. O. 1092. Octr. 10, '44. S. 12. IV. 1797.

But he is not authorized to issue orders direct to subordinate Jail officers, regarding management of Jail, except in cases of very urgent necessity.

Con. 746. Decr. 28, '32. and 909. Octr. 17, '34.

S. J. cannot punish for false complaint in a case committed; but he may direct commitment of prosecutor and witnesses for perjury.

Con. 528. Octr. 30, '29. and 530. Novr. 27, '29.

S. J. has the powers of Commr. of Circuit, but cannot exercise power over **M.** in matters of Police.

S. 5. VII. 31.

S. J.'s power to fine unlimited, except when defined by Regn. as in Dhurna by VII. 20. Con. 959. June 19, '35.—(This does not hold good in N. W. P. where the **N. A.** hold that *the Judge cannot fine at all,* (although it is constantly done,) there being no positive enactment giving the power. The case is the same with Fine and Imprisonment of Chokeydars. The Legislature have repeatedly inferred the power; but no positive enactment is to be found for it. A new Act is about to be issued, giving the power of fine.)

S. J. not to issue general instructions to **M.**

Con. 204. May 18, '15.

S. J. cannot alter a sentence once passed, but must refer to **N. A.**

Cons. 629. March 4, '31. 643. June 17, '31.

Commutation of mutilation, 7 years per limb.

S. 20. 21. VII. 03.

S. J. may exempt people of rank from hard labour.

C. 44. March 28, '07.

Whenever it may be necessary, **S. J.** may employ the native officers of **M.** in transcribing his proceedings.

C. 28. Septr. 11, '07.

JUDGE OF SESSIONS.

S. J. can punish the native officers of M. in attendance upon him at the Sessions, for any act of neglect, or disrespect.

Con. 882. April 2, '34.

S. J. may refer to N. A. any case in which he thinks his own sentence inadequate.

S. 6. XXXI. 41. S. 12, VI. 31.

S. J. may sentence accomplices for privity, though principals had previously been sentenced by N. A.

N. A. R. V. 5. 17.

S. J. may order the dismissal of any native or Police officer convicted before him of a criminal offence, which is expressly punishable by dismission; but in all other cases he should communicate his opinion to M. with his reasons; who shall conform thereto, or report to the proper Court.

Con. 1328. April, 15, '42.

If the crime of which a prisoner is convicted, be not provided for either by Regns. or by Mahomedan Law, S. J. shall, after consultation with Law Officer sentence to not exceeding 7 years, and 2 in lieu of bents.

C. 7. S. 2. LIII. 03.

On perusal of Monthly Statements, S. J. can call for any postponed case, and, if there be not sufficient reason for allowing it to hang on, shall instruct M. to close his proceedings by either passing sentence, or committing to sessions.

C. 1 S. 2. VI. 18.

In exercising this power, S. J. to pay due attention to M.'s reasons, and be careful that his instructions are consistent with the object of public justice, as well as with a just and humane consideration of the prisoner's condition, and the period of his confinement.

C. 2. S. 2. VI. 18.

S. J. cannot try case which he has himself committed; but the case shall be reported for orders of N. A.

S. 6. IV. 23.

S. J. if dissatisfied with the conduct of any subordinate Police Officer, should certify the same to the Superintendent of Police, and intimate his having done so to N. A.

S. 10. VII. 31.

S. J. should avail himself of every opportunity to point out to M. any instances of neglect by Police Officers of the rules for abridging their proceedings, which he may observe; and M. shall be careful that the rules are not neglected, and shall call to account those Officers who persist in not conforming to them.

C. 4. April 7, '49.

JUDGE OF SESSIONS. POWERS.

In cases revised by, or appealed to, S. J., any further investigation which may appear requisite, must be made by M. who will communicate the result to S. J.

Con. 1104. Septr. 1, '37.

It is optional with Civil Judge to commit, or otherwise, at the desire of S. J. or other officer holding the trial, any party who may appear from the evidence to be implicated in the offence for which commitment has been made.

Con. 1203. May 24, '39.

S. J. is competent to cancel any commitment made by M.; or direct the release of, or commitment of, any person; he may also cancel any order of M. that may appear improper, or unjust; and dismiss charges pending before M. when manifestly unfounded.

S. 23. IX. 07. C. 54 July 16, '30. 111. July 20, '32. 175. July 24, '35. Con. 114. Novr. 26, '12. 120. March 8, '13. 489. Decr. 12, '28. 657. Septr. 2, '31.

S. J. may examine the proceedings of M. whenever he considers it necessary: and in special cases he may call for an English report from M.

C. 33. May 22, '01. Con. 1071. Feby. 3, '37.

With reference to S. 5. XXXI. 41. by which the S. J. and M. are empowered to call for and examine the records of their subordinates, to see that they are regular, but without power to *alter* any order except on regular appeal; it is their duty to report to N. A. any cases which appear to demand their interference, (M. to report through S. J.) in an English letter commencing with, "Under S. 5. XXXI. 41. and C. of March 18, '42. I herewith transmit, &c. &c."

C. 106. March 18, '42.

In cases beyond the competency of M. himself to decide, S. J. can interfere to direct apprehension with a view to commitment, of persons whom the M. had released; but he should exercise this power with great caution and discretion.

C. 123. Decr. 16, '42.

S. J. can pass sentence on a prisoner convicted of receiving property knowing it to have been obtained by Robbery attended by Murder.

N. A. R. V. 179.

It is competent to Governors of Bengal and Agra to transfer any part, or the whole of the duties connected with Criminal Justice, from any Commr. to any S. J., and to define the powers which shall be exercised by each respectively.

VII. 35.

PUNISHMENTS.

4.—PUNISHMENTS. See "Commitment, Punishments." "Judge, Powers."

S. J. may fine M.'s Mohurrir attending on him during sessions.

Con. 882. April, 18, '34.

JUDGE OF SESSIONS.

S. J. may order dismissal of Police officer convicted before him; but in other cases should merely communicate his opinion to M.

S. 15. XXV. 14. C. 8. S. 7. XVII. 16. Con. 1328. April, 15, '42.

Imprisonment for life involves transportation, unless special reasons are recorded.

XIV. 44.

Sentence to be passed in the most public manner.

C. 160. Feby. 24, '16.

When S. J. proposes perpetual imprisonment in Alleepoor Jail, he is to give his reasons for not recommending transportation for life. By C. 130. Feby. 24, '43. S. J. had always to give transportation; but under XIV. 44. a single Judge of the N. A. may change imprisonment for life, into transportation.

C. 229. May 27, '46. for Lower Provinces.

On conviction of two or more cases, the aggregate prescribed punishment for which may exceed 14 years with stripes, S. J. may give 14 years in banishment, and 39 stripes. If this is not enough, he should pass sentence in each case, and refer to N. A.

C. 1. S. 2. XV. 14.

The principle of this clause is applicable to cases wherein the prisoner, convicted and punished at a former Sessions, may be brought to trial and convicted at a subsequent Sessions of another offence committed before his first sentence; but not to any new offence committed subsequent to his conviction of a former offence.

C. 2. S. 2. XV. 14.

Tusheer cannot be added.

Con. 360. Decr. 26, '23.

The rules of XV. 14. are not altered by XVI. 25, prescribing minimum punishment.

N. A. R. V. 2. 459.

S. J. must try sufficient number of cases to warrant maximum punishment.

Con. 1011.

But when the further cases are not such as would necessitate Death, or imprisonment for life, they need not be entered upon, the S. J. recording his reasons in the statement sent to N. A. who can order a further trial upon the remaining charges.

C. 3. S. 2. XV. 14.

No criminal to be mutilated—but each limb to be commuted to 7 years, with hard labour in irons.

S. 51. IX. 93.

In the Lower Provinces, the power of Judges to fine is *unlimited*, except when defined by Regn., as in Dhurna, by VII. 20.—Con. 959. June 19, '35. The Agra

JUDGE OF SESSIONS. PUNISHMENTS.

Court, however, are of opinion that *the Judge has no power to fine at all!!* He possesses the power by custom, inference from Regns. and the necessity of the case; but there is no positive enactment giving it. In this, as in the case of fine and imprisonment of Chokeydars, subsequent enactments have taken it for granted that the power exists, although it has never been especially given. A new Act is required to reconcile the conflicting constructions of the two Sudder Courts, and remove the glaring inconsistency of Judges, having unlimited power of fine in Bengal; whilst in the N. W. P. under the same law, they cannot fine at all. C. 227. May 2, '46. The Draft of an Act published Septr. 26, '46. "to declare the competency of the Courts of N. A. and S. J. to punish offences by fine," would tend to prove that under the existing law they are *not* competent to fine, and that the Agra Sudder are right.

A new Act is about to be published, giving the power of Fine.

JURY, LAW OFFICER.

5.—JURY, LAW OFFICER.—see Commitment III.

S. J. need not refer to N. A. when he differs from VI. 32, Jury.

Con. 783. April 12. '33.

Trials referred to N. A.

LIII. 30.

S. J. can only invite the attendance of Natives as Jurors, and cannot compel them to attend.

C. 127. Jany. 18, '33.

S. J. to pass sentence when he agrees with Law Officer. C. 3. S. 4. IX. 31. but to suspend execution of punishment till the orders of N. A. have been received on the reference as to the prisoners about whom S. J. and L. O. differ.

Con. 484. June 6, '28. C. 6. S. 4. IX. 31. N. A. R. V. 4. 333. V. 5. 139. S. 2. XVII. 17.

If Law Officer rejects evidence, case must be referred.

Con. 1045. Septr. 9, '36. S. 2. XVII. 17.

The condition of reference to the N. A. S. 4. VI. 32. must be held to relate to the nature of the crime, and, since whatever is specified in the Regns. to be a crime, is specifically punishable by the Criminal Courts, the S. J. is specifically empowered to punish such offences, when brought before him in due course of law. The real object of the Sec. in question is to declare the incompetency of the S. J. unassisted by a Mahomedan Law Officer, to declare that to be a crime, which is not so declared by the Regns.

C. 55. June 12, '40.

New jurymen may be substituted for those dead, or who cannot again attend; but the former evidence must be carefully read over to them before proceeding with the trial.

Con. 828. Septr. 13. '33.

JUDGE OF SESSIONS.

See "Commitment No. III." "Magistrate III. 10."

In trials before S. J. the Cazee shall write the Futwah at the head of the record of the proceeding and shall attest it with his seal and signature. S. J. shall consider the Futwah, and if it shall appear consonant to natural justice and conformable to Mahomedan Law, he shall pass sentence in the terms of the Futwah, (except in cases in which he shall be directed not to pass sentence,) and shall issue his warrant to M. for its execution. In all cases where a prisoner may be condemned to Death or Imprisonment for Life, the Judge shall transmit a copy of the sentence and of all the proceedings to N. A., and shall wait the final sentence of the Court.

S. 47. IX. 1793.

S. J. shall strictly observe the order of proceedings prescribed in S. 47. IX. 1793.
C. 19. Feby. 28, 1799. C. 192. Jany. 27. '18.

When S. J. shall disapprove of any part of the proceedings, or of the Futwah, he shall not pass sentence, but shall complete the Trial, and transmit copy of all the proceedings, and the Futwah, with an English letter stating the grounds of his disapproval for the sentence of N. A.

S. 53. IX. 1793.

S. J. shall refer all questions on points of Law to the Law Officer, except on points specifically provided for by the Regns. and shall regulate his proceedings by the opinion of that officer. If the S. J. shall disapprove the opinion, he shall nevertheless be guided by it, and shall transmit the proceedings, and Futwah, for the sentence of N. A. with English letter.

S. 54. IX. 1793.

In Trials for Murder, after the proceedings have been concluded, the Law Officer shall be required by the Judge to declare whether the Prisoner is convicted of the charge, and shall subscribe his answer on the record of the Court's proceedings. If L. O. shall declare the prisoner not guilty, S. J. shall pass an immediate sentence of acquittal, unless he disapproves the verdict, when he will refer to N. A. If the L. O. declare prisoner guilty of wilful Murder, S. J. without making any reference to the heirs of the slain, shall require the L. O. to declare the punishment to which the prisoner would be liable according to Mahomedan Law, supposing heirs to have demanded kissas. The Futwah of the Law Officer upon this reference, shall be also subscribed on the record of proceedings, and whether Futwah declare the prisoner liable to death, or not liable to death from heirs not being entitled to demand Kissas, or failure of retaliation from parties standing in the relation of parent and child, or master and slave, or otherwise, the S. J. shall refer to N. A. Should L. O. to the first reference, acquit prisoner of wilful Murder, but convict of Homicide, he shall declare the prescribed penalty for the same, and if his Futwah shall declare Deeut, or price of blood, to be the whole, or part, of the legal punishment, S. J. shall commute the fine to imprisonment adequate to the offence, and his sentence in such instances, as in all others shall be carried into execution without reference to N. A. if for temporary imprisonment, or referred to N. A. if for imprisonment for life, subject to the general provisions of S. 53. IX. 1793.

S. 3. IV. 1797.

JUDGE OF SESSIONS.

JUDGE OF SESSIONS. JURY. LAW OFFICERS.

When there may appear sufficient cause for dispensing with the attendance and the Futwah of the Law Officer, upon any criminal trial, it is competent for Govt. to order the same; but in such cases no sentence shall be passed by S. J., except in cases tried with the aid of a Jury, or which may be specially exempted by law, but the case shall be transmitted for orders of N. A.

S. 2. 3. I. 10.

In the event of any question of Mahomedan Law arising upon such trial, the same shall be recorded upon the proceedings for the information and decision of N. A.; but if the question refer to the competency of a witness, such witness shall be examined leaving the admission, or ultimate rejection of such evidence to N. A.

S. 3. I. 10.

When a prisoner is acquitted by Law Officer and S. J. thinks the proof sufficient to convict him of the whole, or part, of the charge, he shall submit the case to N. A.

S. 2. XVII. 17.

On the receipt of such trials, the Law Officers of N. A. shall write their Futwahs thereon, as in trials referred under the Regns.

S. 3. XVII. 17.

Should the Law Officers of N. A. acquit the prisoner, and two or more of the Judges of N. A. concur in his conviction, they shall pass sentence upon the prisoner as if convicted.

S. 4. XVII. 17.

In all cases in which Law Officer considers prisoner liable to discretionary punishment (Tazeer akoobut, or Seasut) their Futwah shall declare the same, with a statement of the grounds on which the prisoner is adjudged subject to discretionary punishment.

C. 1. S. 2. L. III. 03.

Should the crime be specifically provided for by any subsisting Regns. and the Judge consider it to have been established against the prisoner, he shall sentence him, or transmit trial, with his opinion to N. A.

C. 2. S. 2. LIII. 03.

If the crime has not been provided for by any Regn. but be specifically provided for in the Mahomedan Law, and the penalty of "Hudd," or "Kissas," is not adjudged from the prisoners being convicted on presumptive proof, and not on full legal evidence, a second Futwah shall be required, specifying the punishment of "Hudd" or "Kissas," to which he would have been liable had he been convicted on full legal evidence, and sentence passed accordingly.

C. 3. S. 2. LIII. 03.

A similar mode of proceeding shall be observed when the crime may not have been provided for by any Regn. and a sentence of "Hudd" or "Kissas" is barred by some legal exception, or distinction, not affecting the nature of the offence, and repugnant to justice.

C. 4. S. 2. LIII. 03.

JUDGE OF SESSIONS.

Nothing in this section shall be construed as authorising discretionary punishment exceeding, or equal to the specific punishment prescribed by the Mahomedan Law, in cases where such specific penalty is remitted, or mitigated by that Law, in consideration of circumstances which alter the nature, and diminish the criminality of the offence unless such enhanced or equal punishment for the crime shall have been denounced by Regn.

C. 5. S. 2. LIII. 03.

No punishment whatever shall be awarded upon suspicion only, or weak presumption of guilt not sufficient for conviction; but S. J. in cases of strong suspicion and notorious bad character, may take security for future good behaviour and appearance.

C. 6. S. 2. LIII. 03.

If the crime of which Prisoner is convicted, and for which he is declared liable to discretionary punishment, is not provided for by Regn. or Mahomedan Law, S. J. after consultation with L. O. shall sentence to not exceeding 7 years and 2 years in lieu of Bents.

C. 7. S. 2. LIII. 03.

If a Prisoner committed on two counts is convicted on one only by S. J., and of the other only by L. O., the case must be referred to N. A.

Con. 971. Augt. 7, '35.

Copies of Futwahs, in all cases where S. J. has punished shall be submitted to N. A.

C. 283. Jany. 23, '24.

In case of conviction by L. O. of Robbery with attempt to Murder, S. J. must refer to N. A. whether he coincides, or not.

N. A. R. II. 264.

6.—PARTIES AND WITNESSES—see "Commitment heads, Prosecutors, Defendants, Evidence."

S. J. not to correspond with Appellants from M.'s orders.

Con. 818. Augt. 23, '33.

S. J. should carefully examine witnesses to confessions before M. as to whether they were actually made in his presence, &c. &c. and should correct any irregularities of the M. or his police officers.

C. 73. Augt. 23, '10.

S. J will attend carefully to prevent cheatery in the payment of diet money to indigent prosecutors and witnesses.

C. 125. Novr. 16, '32.

If necessary witness cannot be found, trial to be postponed; but if his evidence do not appear essential, the trial can be completed without it.

S. 49. IX. 93.

JUDGE OF SESSIONS. PARTIES and WITNESSES.

M. to furnish S. J. with original returns of Nazir, who should also be in attendance at Sessions to answer interrogatories; and S. J. shall ascertain that all proper measures have been taken to secure the attendance of witnesses.

S. 4. IX. 96.

7.—APPEALS.

APPEALS.

S. J. cannot take cognizance of appeals against decisions passed by himself in any other capacity.

C. 4. S. 12. XXV. 14.

Con. 940 is superseded by XXXI. 41.—S. 2. of which provides, that *all* orders of M. in judicial proceedings other than criminal trials, are appealable to S. J.

C. 119. Octr. 15, '42.

JUMMAH.

JUMMAH—Having been once fixed at Settlement, cannot be altered without the sanction of Govt. (See "Rentroll." "Remission," "Kistbundee," "Balances," "Alluvion.")

Acct. May 13, '41. S. B. June 25, '47.

The most common causes of Alteration, are :—

1. Alteration of Area by alluvion, or diluvion—see "*Alluvion.*"

2. Remissions on account of Land taken for public purposes, see "*Remission*" and "*Compensation.*"

3. Reduction of jummah on account of ascertained over-assessment, see "*Remission.*"

4. Partial forfeiture of land included in a grant of Jungle.

5. Transfer of land by decree of Court from one mouzah to another. At the Settlement the boundaries of all mouzahs were settled and the jummah fixed accordingly. But the decisions of the Settlement officers were liable to be contested in the Civil Courts, and the boundaries to be finally adjusted differently from what they were when the assessment was fixed. In such case, the land transferred will carry with it its portion of Jummah, and a re-adjustment of the jummah on the two mouzahs should be made. The Revenue officers of Govt. are the persons to decide, what is the amount of jummah to be borne by the transferred land. This is a question beyond the cognizance of the Civil Courts, except upon the ground that the boundaries of the mouzah were at the time of assessment, such as they determined them to be. In that event, the interests of Govt. are concerned in the suit, and it has a right to be heard in support of its interests.

Alteration of Jummah in pursuance of a decree of the Civil Court, being of the nature of a Butwarrah, a re-distribution rather than an alteration of Jummah, is within the competency of the Board, and does not require the sanction of Govt.

Directions. 219. 220.

Those Balances only to be considered "nominal" where the lower Jummah has been sanctioned by Govt. The difference between Jummahbundee and Jummah in Kham estates, to be entered "doubtful" till final arrangements are made regarding the estate, when it will be recovered, or be recommended for remission, as may appear proper.

S. B. Jany. 31,'45.

JUMMAH.—JUSTICE OF THE PEACE.

Form of Jummah Wasil Bakee for the year, with rules.

Acct. May 19, '41. *Manual.* 14.

In this, as in other Land revenue statements, the *authorized* Rentroll should alone be included; all demands of land revenue that have not been specifically authorized by Govt. should be excluded.

The aggregate of demands should invariably agree with the Jummah for the year indicated in the comparative statement of Jummah, and ordinarily also with that which was shewn in the commencement of the year in the Kistbundee, the exception being when the year's demand is affected by any orders of Govt. issued during the progress of the year.

The net balance shown is to be carried forward into the 4th figured column of the succeeding year's *Bukya Touzeeh* account (see "Remissions").

Manual. 14.

When a revised Settlement is pending the confirmation of Govt. all the Land Revenue statements should exhibit the *old* demand as the Jummah of the District, although the Collections may be made according to the *new* settlement. In cases of proposed reduction, the decrease may be designated a *suspended*, or *nominal* balance till the revised Jummah be *sanctioned*, when it should be written off as a remission. In like manner, when the revised Settlement may give an increase to the existing Jummah, it should not be brought on the Rentroll (see "Rent roll,") before the new Settlement has received the confirmation of Govt. but should be realized and carried to credit under "profit and loss," as surplus collections not included in the Touzeeh, care being taken in the credit entry to specify the name of the Mouzah and Pergunnah and the year for which the surplus was realized.

Manual. 15.

JUSTICE OF THE PEACE.—Commissions can be issued by Govt. through Supreme Court.

VI. 45.

New Commission comprises names of all covenanted officers.

C. 213. Augt. 15, '45.

Persons nominated may qualify by taking the oaths in any civil or criminal Court of Justice, before the officer presiding in such Court, whether he be himself a J. P. or not; the subscription to the oaths (see Appendix C. No. 7.) to be kept with the records of the Courts.

S. 1. XVI. 48.

KHARIJ DAKHIL.

KHARIJ DAKHIL.

KHARIJ DAKHIL.—**Ist.** OF LUMBERDARS.
IInd. OF PUTTEEDARS.

This process has no judicial character.

Con. 1008. May 19, '36.

It is the declaration of A FACT. It is the entry in the register of the proprietor, i. e. of the person to whom the Collr. is to look as responsible for payment of the Govt. Revenue, and whom he is to recognize as authorized to collect the rents of the estate, and manage its affairs.

Directions. 185.

The Form for the Malgoozaree Register, with directions for its preparation, will be found in Appendix XIX. It is *Mehalwar* whilst the Purgunnah Register (see "Rentroll,") is *Mouzahwar*. *Directions.* 158. The Register should be prepared by the Tuhseeldar when he makes up his accounts for the collection of the revenue of the ensuing year. All changes in the disposition of property, should be notified by Collr. to the Tuhseeldar, and should be shown in the following year's Malgoozaree Register, where each change must be supported by a reference to the order which notifies it. No Register of intermediate mutation will be necessary. If on compiling the register at the beginning of the year, the Tuhseeldar finds that some changes have taken place, which have not been notified to him, it will be his duty to report them, and to await orders, retaining in the register the old entry, with a note of his report.

Directions. 162.

Several Mouzahs belonging to the same Proprietor, or body of Proprietors may be grouped together in the Malgoozaree Registers. The separation of the Jummah on the several Mouzahs, however, remains complete. If the proprietors should wish to pay up the jummah first on any particular Mouzahs, they can always do so by specifying in the *urs irsdl* the name of the Mouzah to which it is to be credited; and in that event the Collr. could only proceed in the first place against the Mouzah on which the balance was left due. Without such specification the payment would be credited to the whole Mehal; and in the event of default and sale, the Collr. should under S. 14. I. 45. put up first to sale that mouzah which stands first on his register, and then proceed to sell the next, till the whole balance is realized.

Directions. 165.

Where the Mouzahs lie in different Tuhseeldarees, they cannot be grouped together, unless they be made Huzool Tuhseel, under S. 9. XXVII. 03. allowed to pay direct into the Sudder Treasury. No one can claim a right to be made huzooree. It can always be effected with the approval of the S. B., but its continuance should be made contingent upon the punctual payment of the Revenue.

Directions. 166.

The proprietors entitled to registry are those, who pay direct to Govt. the revenue due from the mehal, and are called Sudder Malgoozars, or Lumberdars. They are so, either in their own right, or, as representatives of a village community.

Directions. 186.

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The real acknowledged proprietor may be temporarily out of possession, and possession transferred for a time to another, as in the case of a Mortgagee, a Govt. Farmer, or an Administrator put in by the Civil Court. To provide for these cases, there are columns in the Malgoozaree register to show the real acknowledged proprietor, and the person actually in possession, and managing the property.

Directions. 188.

Mutations take place on any change of apparent proprietary right. This sometimes happens by order of executive authority, as by Decree of Court, Sale by public auction, or exclusion on account of default. In such cases, there is no reference required to the parties concerned. If the registers are properly kept up, and show the person in apparent proprietary possession, there will be no difficulty in making the mutation of names.

Directions. 190.

Changes of proprietary right also happen by act of the parties, such as Sale, Mortgage, Gift, &c. &c. In such cases the transferee is the person under S. 41. XLII. 1803. to make the application; and the Collr. on "*ascertaining the truth of the alleged transfer,*" is *bound* to make the mutation. Notification of intended mutations should be made, at the cutcherry, and in the mehal, and 15 clear days allowed to enable objectors to appear. If there is no objection advanced, and the truth of the alleged transfer is established, the mutation is of course made.

Directions. 191.

A report of all the circumstances should also be required from the Tuhseeldar of the Pergunnah. If it then appear that there is no objection to the transfer, the desired mutation may be made, and the actual change of possession will occur either simultaneously, or immediately after.

There is no objection to such a course of proceeding. It is a convenient method by which intending purchasers can ascertain whether any person is likely to oppose the transaction. But it by no means necessarily follows that transfer can only be effected in this manner, nor do objections raised in consequence of the notification always bar the transfer. It may also happen that notwithstanding the mutation of names, circumstances may arise to prevent the actual transfer, and in that case the mutation of names in the Register will have to be cancelled.

Directions. 191.

The being pledged as Security need not prevent Kharij Dakhil. See "Security."

Commr. 5th D. May 31, '48.

In cases of Succession there is this difficulty, that the possession of the former proprietor suddenly terminates, and that there may be doubt who, out of many claimants, is the successor. The Collector can, in such case, only make the mutation, if a claimant of the succession obtains complete possession. Para. 4. Con. 1008. May 19, '36. But XIX. 41. has now so amply provided for cases of disputed succession, that an authoritative order of the Civil Court is sure quickly to terminate all doubts as to the person whose name is to be entered. See "Administrators."

Directions. 195.

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KHARIJ DAKHIL.

The S. B. having noticed that many of the Collectors when asked to alter the Record, in case of disputed succession, are in the habit of entering into investigations with a view of ascertaining the right heir, and even sometimes of apportioning the extent of interest among several heirs, and that the Commrs. do not seem to have objected to the practice, I am directed to call your attention to the absence of all authority in the Regns. for any such proceeding. The *only name* which the Collr. is to insert in this record, is that of the person, or persons, to whom he is to look for payment of the Govt. Revenue. In cases of the death of any such recorded Malgoozar, and a dispute arising among those claiming to be recorded in succession to the deceased, the Collr. will take the proper steps for the security of the revenue, and the proceeds of the estate, till the order of the Civil Court shall be received.

S. B. March 10, '35, as altered by July 15, '36.

The S. B. observe, that if the petitioners are the heirs of A. B. they should be registered in the room of that person. The order of May 27, '27 had no reference to cases of this nature, but merely to possession under deeds of mortgage. It is not intended by the transfer of names in the proprietary register, to disturb the possession of the Mortgagee.

S. B. May 20, '28.

Perplexing cases of disputed transfers sometimes arise. Persons may allege that certain property has been transferred to them, and may apply to be registered as proprietors; whilst the person whose names stand in the registers as proprietors, may deny the transfer. The point to be ascertained in such a case, under S. 41. XLII. 03. is, "*the truth of the transfer.*" If this "shall appear to have taken place," the mutation of names must follow. It is not necessary that the former proprietor consent to the mutation of names, or that the transferee prove the transfer to be a rightful one, because it is expressly declared that "these entries shall not in any degree affect the *rights* of any party whose name may be registered as the ostensible proprietor of the land, or whose name may not have been registered, but who may establish a right of property in the Court of Adawlut, or otherwise." The fact of the transfer of possession cannot be altered by the Collr.; and his entry of that fact in his register, neither strengthens the title of the transferee, nor weakens the right of the former proprietor.

Directions. 192.

Proprietors entered in the registers, not in their own right, but as representatives of the Village community, do not necessarily possess a heritable, or transferable, right in the management of the estate. The elective nature of the office of Lumberdar, has been generally recognized at the Settlement. In Paras. 153—158, of Directions to Settlement Officers, his position has been explained. Whenever the name of one of these proprietors is to be changed, a reference should be made to the administration paper of the village, as declaratory of the custom in such cases; and the custom, whatever it is found to be, should be enforced.

Directions. 197.

In short, the mutation of names in the register is a duty incumbent on the Collr. without reference to the wishes of any party. He is bound, by means of his establish-

ment, to keep himself informed of all mutations of property. On satisfying himself of their actual occurrence, he is bound to make the corresponding mutations of names in his registers, and to levy the fees appropriated by S. 10. XXIII. 03. for the maintenance of his records. Unless he punctually perform this duty, his registers will lose their value, and will cease to be the accurate proof of *facts* which they are designed to be.

Directions. 200.

By S. 7. IV. 08. it is the duty of the Canoongoe to notify all mutations of property; and this will be done if the Tuhseeldars are compelled, (Directions 162.) furnish annual Registers.

Directions. 196.

As Registrars, (see "Registrar") only notify the execution of Deeds, and not the actual transfers of possession, mutation of names will not be made till the provisions of the deed have been carried into effect, or are on the point of being so, as explained in *Directions* Para. 191.

The execution of a new engagement for payment of the Land Revenue is unnecessary, because no private transfer affects the right of Govt. to realise its demand from the land itself, or from the property of the occupant proprietor.

Directions. 200.

See "Rentroll," "Records."

Para. 2. "The Lieut.-Govr. concurs with the Junior Member of the Board, that it is the proper province of the Collector to register Mutations which have taken place, and not to decide whether they should take place.

3.—It is apparently owing to the defective wording of the Board's printed Circular Order No. III. Sec. 8. that a different practice has prevailed. Sec. 209. of that Circular, directs the Collr. to "*disallow the application*" for mutation of names, if the transfer militate against the terms of the Wajib ool urz. S. 212. directs him "to *cause* the mutation *to be made*" if the transfer be in conformity with the terms of the Wajib ool urz. In fact, as the junior member justly supposes, the Collector has no power to disallow the mutation of names, if the transfer has actually taken place, nor to cause it to be made, if there is any obstacle to the transfer.

4.—In practice, people effecting transfers apply to the Collr. for mutation of names before the transfer is complete, as a device for ascertaining that no opposition will be raised to it. If no objection is raised to it, or if an objection is made only by a person unable to oppose the transfer, it takes place as a matter of course. If, on the other hand, the transfer is opposed by those who are in a position to resist it, the Collr. should refuse mutation of names till, in the words of S. 41. XLII. 03. he "ascertains the truth of the transfer."

5.—All that Paras. 209 and 212 of the Board's circular *meant*, was, that when the Wajib ool urz set forth the right of pre-emption, the objecting coparceners were in a position to resist the transfer, and that the Collr. was bound so far to respect their objection as to refuse to make the mutations, till he was satisfied that the transfer had

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actually taken place. (I doubt this. The paras., like every thing else R. Bird wrote, are clear and plain, that the Collr. was *not* to stultify his Settlement proceedings, by registering any mutations made in direct contravention of them, without a positive decree of Court.)

(Provision is made for the enforcement of the right of Pre-emption by S. 4. I. 41. on the occasion of the Sale of any Puttee by public auction for arrears of Revenue; and by Para. 8 of the Rules of S. D. A. under S. 11. IV. 46. on the occasion of the sale of the rights and interests of a coparcener in satisfaction of a Decree of Court. The existence of this right generally forms the subject of stipulation in the administration paper at the time of Settlement, and has been frequently recognized by the Courts of Justice. There does *not*, however, exist any summary process for its assertion, except in the above cases of public auction. If then, in cases of private sale, a coparcener objects, and claims the right of Pre-emption before the Collr., mutation of names will not be made unless it be certain that an actual transfer has been effected. But if this be undoubted, the mutation of names in the Register cannot be refused. The remedy of the party claiming pre-emption lies in a Civil Suit. The petition to the Collr. remains as a Protest on his part against the transaction, and as a proof that he made every possible exertion for the assertion of his right at the proper time.

When the right of pre-emption is claimed under the Mahomedan law of Shufaa, the same course should be followed. (*Directions* 194.)

6.—The same is the state of the case with regard to those who are not Sudder Malgoozars, in the Village register kept by the Putwarree. If the transfer takes effect, the mutation of names is made; but if the transfer is successfully resisted, no mutation of names takes place.

7.—The careful observance of this course will not, however, as the junior member supposes, prevent the people from being driven to the cumbrous process which they now adopt of seeking to complete the transfer through the instrumentality of the Civil Courts.

8.—In fact, the functions of the Collector and of the Civil Court in the transaction are perfectly distinct, the Civil Court is called in to effect that which the Collr. cannot bring about, or prevent, namely, the transfer of the property from the seller to the purchaser, notwithstanding the opposition of the coparceners.

9.—Another question may then be raised, whether the present practice of the Civil Courts is equitable. According to that practice they assist the seller to transfer the property to the purchaser, notwithstanding the legal right of pre-emption possessed by the coparceners; and they refuse to admit any coparcener to plead his right in any stage of the process, either while the suit is pending, or after the suit has been decided in bar of execution of the decree.

10.—The Lieut.-Govr. has come to the conclusion that there is no sufficient ground for objecting to this course of procedure, and conceives that it cannot be altered except by an express enactment.

11.—Even supposing that the present practice involves a hardship on the coparceners, they evidently have their remedy in a Civil Suit, claiming their right of pre-emption, which, if instituted immediately after the decree founded on the confession of judgment, may be held to avail to delay execution, whilst the suit to make good the

right of pre-emption, is pending, (doubtful.) "If this remedy is considered insufficient, the fault lies in the construction of the Courts, which renders the necessity of resort to them a grievance, and not in the provision of the Law which holds them competent to redress" (at a fearful waste of time and money) "all wrongs of this description."

G. O. April 4, '48.

There is little doubt that the principle of this order, that the Collector has no judicial power in the matter, but has merely to register the fact of a transfer of possession having taken place, is correct; but I fear that physical strength and corruption of Putwarrees, will be at a premium, and that many weak and absent sharers, women, and children, will lose their rights with little chance of recovering them. This abolition of the equitable jurisdiction hitherto exercised by the Collector will lead probably to much hardship to those who cannot afford the expense and risk, of a Civil Suit.

Another question requires to be settled. I have known Kharij Dakhil of a village given by a Collr. on what he considered the fact of possession. Possession of the same village being contested before the M. under IV. 40, he considered copy of the Collr.'s proceeding giving such Kharij Dakhil presumptive evidence of possession in favour of the party who had obtained registry. On appeal to the S. J., he deemed otherwise, reversed the order, and ordered possession to be given to the opposite party. This order being final, the Collr. on receiving intimation of it through the M. had to reverse his own Kharij Dakhil, possession having been given to the other party by M. under the orders of the Judge.—There should be some rule to prevent such clashing of opinion and jurisdiction.

In Kharij Dakhil, whether by succession, gift, or private sale, particular rules regarding *Balances* are unnecessary, the *Estate* still remaining answerable for the arrears accrued upon it. But, as the purchaser may not know this, Revenue officer should tell them at the time of K. D. the amount of balance due from the estate, and his responsibility for the same; and should take advantage of the opportunity to secure, if possible, a liquidation of the amount.

A. R. D. 476. Jany. 30, '34.

When a sub-lease has been given in consideration of a sum of money, whether the lease is for a fixed term, or till repayment, the transaction should be treated as a Mortgage; the Collr. may admit the lessee to engagements, and transfer names in Register.

Where no such consideration has been given, the management only, and not the proprietary right, must be held to have been temporarily transferred. There will be no mutation of names in the Register, but the transaction may be recognized by Collr. upon application of both parties, and the Tuhseeldar may be directed to demand the Revenue from the Lessee, and to credit it to the estate in his name as on behalf of the proprietor. This management will continue until either party may express his desire to terminate it after the close of the current year. During its continuance, the Lessee will be *responsible in his person and property for any sums which he may collect from the Estate;* and the Estate itself will also continue liable to sale for any arrears.

Directions. 49. S. B. Feby. 3, '46.

(Compare this with Cons. 1366. 1333. 1312. under "Possession.") See also "Land Revenue, General Principles."

KHARIJ DAKHIL.

KHARIJ DAKHIL IN EXECUTION OF DECREES OF CIVIL COURTS.

By S. 11. III. 03. the Civil Courts are required to furnish Collector with copies of all decrees regarding land paying revenue to Govt. which should be filed with the other papers of the Mouzah, and be entered in the Indices. If the decree affects more than one mouzah, a reference should be made to it in the Index of each mouzah affected. These notices afford an important local index to the Decrees of Courts.

Directions. 302.

On giving possession of landed property, the Judge orders mutation of names in the Collector's Register. It may happen that the name of another person is entered in the Register, than that of the person whose exclusion from the property is ordered. If so, this should be certified to the Civil Court, and further instruction requested. The orders then issued should be immediately carried into effect; though the Collr. of course possesses the power of representing to Commr. any injustice which he may perceive to result from the enforcement of the order.

Directions. 303.

When the person whose name is entered in the malgoozaree register is the mere representative of the village community, it may be that under the constitution of the village as settled in the administration paper, the Civil Court does not possess the power of placing another person in his room. Whatever property the Lumburdar possessed in his own right, will pass by the decree of the Court; and if the effect of the decree be entirely to sever his connection with the village, he will cease to be the representative of the community, to whom the right of electing another representative will then revert, and they will proceed to fill up the vacancy according to the rule locally in force.

If the decree order partition of the land decreed, the decree-holder will appear as the recorded proprietor of the new mehal, and the old community will elect a new representative for the remainder.

Directions. 304.

If the person against whom the decree is passed is not a Lumberdar, and partition be not ordered, the mutation of names will then, only be made in the Putwarree's papers by an order addressed through the Tuhseeldar.

Directions. 305.

When property is under litigation in the Civil Courts, instructions are sometimes addressed to the Collr. forbidding Kharij Dakhil without the authority of the Court. This proceeding is a *Caveat.* If Collector has reason to believe that a transfer of the property is taken place, notwithstanding the injunction of the Court, he should warn the parties and immediately apprize the Court of the circumstance. If the transaction is allowed provisionally to take place, subject to the Court's future decision as to the right of the transferer, mutation of names should be made on this understanding.

Directions. 306.

KHARIJ DAKHIL.

IInd. KHARIJ DAKHIL OF PUTTEEDARS.

The remarks above from Para. 185 to 200 of Directions have reference to mutations in the malgoozaree register of the names of proprietors, who pay their revenue direct to Govt. But there are numerous other proprietors who ordinarily pay their revenue to Govt. through their representative, and it is most important that provision be made for showing the mutations of property amongst them.

Directions. 221.

For this purpose the Putwarree of every mehal is to be caused to take a correct copy of the *Khewut* paper, or record of administration. This will furnish the name of every sharer, the land he holds where land is held in severalty, or the proportionate share possessed at the time of settlement, and the amount of jumma for which he is responsible.

S. B. III. 220.

Of course where sharers recorded themselves as holding in common at the settlement, their possession and liabilities will appear in common in the Khewut record.

S. B. III. 221.

The Putwarree will be required to make out by the 1st October of every year, a fresh paper in triplicate. One copy to remain in his own custody, the other two to be delivered to tuhseeldar.

S. B. III. 222.

Only the names of persons in full proprietary possession should be shown in the Khewut. Resident and cultivating claimants of proprietary right, who are out of possession, should be shown only in the Jummabundee. So, also, non-proprietary cultivators who pay according to the village Bach,h, should be shown only in the jummahbundee.

Notes, *Directions.* 224.

In the 6 first columns will be inserted the number and name of mouzah, and the names of the Lumberdars and Putteedars, with the land held by, and jummah demandable from each on the commencement of the first year after settlement, according to the Khewut paper. In the six following columns will be inserted the particulars of any transaction which may take place during the year, by which a change of possession is effected. In the four last columns will be inserted the state of possession and liability at the close of the year, with which the first four columns of the succeeding year will of course entirely coincide.

S. B. III. 223.

Where no change may have occurred either in persons, or the distribution of property during the year, the paper of the current year, will of course be in all respects similar to that of the year preceding. But if any sharer may have died, or have mortgaged, or sold, his share, the name of the heir, or transferee will appear in the paper of the current year, and the Putwarree will be required to affix a note, stating the cause of the change, namely, by succession, sale, &c. &c. The Tuhseeldar and

KHARIJ DAKHIL Of PUTTEEDARS.

Canoongoe will of course be responsible that no conveyance is registered, in which the right transferred is not in exact accordance with the administration paper filed at the settlement.

S. B. III. 226.

It is not unusual for parties intending to make a transfer, to present a petition to Collr., stating the arrangement for his information, the object being to secure a kind of record of the transaction. In all such cases, the petition must be sent to the Tuhseeldar, whose duty it will be to see that the transaction, if actually involving a change of liability and possession, appears in the Khewut paper of the year.

S. B. III. 227.

Also whenever a Court of Justice may decree a proportionate share in a mouzah held in common, or may give specific instructions for putting a plaintiff in possession of certain specified fields in a mouzah, of which the lands are held in severalty, the transactions in question being supposed to involve no change in the parties under direct engagements to Govt., the Tuhseeldar will be instructed to see the fact duly noted in the Khewut paper of the coming year. Transfers of Puttees, &c. &c. by the Revenue Department, will be similarly recorded.

S. B. III. 228.

The object of this order is strictly to secure a record of the rights of sharers not under direct engagements with Govt., and whose names are consequently not entered in the Govt. malgoozaree register.

S. B. III. 229.

The Putwarrees will file these papers at the Tuhseeldarec, by the 15th October of each year, and the Tuseeldar will forward one copy to the Collector by the 1st Novr. Every Collr. will certify by the 1st Jany. that all the papers have been received, and placed with the records of the village to which they belong; and the Commr. will report to Board on the 1st of each February.

Directions. 222—232. S. B. III. 230.

KHAM TUHSEEL.

KHAM TUHSEEL, see "*Land Revenue,* No. 4."

KHAS LANDS.

KHAS LANDS.—Collector and his agents, have the powers of Zumeendars.

S. 36. XXVIII. 03.

In estates held Khas, and those under Court of Wards, the Putwarree to be appointed by Collector.

S. 10 XII. 17.

KISTBUNDEE.—KHOOD-HAKIMEE.—LABOUR,

KISTBUNDEE.

KISTBUNDEE, see Para. 7. Sec. 1. Page 151. of S. B.'s Circular. Also "Rent-roll." "Remission."

If during the year any increase or diminution of the Kist has occurred by Revision of Settlement confirmed by Govt., or by transfer to, or from another district, the revised amount must be exhibited in the Touzeeh, and any want of correspondence between the two returns should be noted on the Hâl Touzeeh in a note at the foot.

The last column should indicate the total demands on each Pergunnah for the official year, and their aggregate the entire demand of the District, as per existing Settlement. Land Revenue *not* on the Rentroll should be excluded from this return. Explanations of any alterations from the Rentroll shown in the Jumma wasilbakee for the preceding year should be given, and reference to date of orders authorizing such mutations.

Manual. 13. 14.

KHOOD-HAKIMEE.

KHOOD-HAKIMEE.—Any person taking cognisance of, or interfering in any matter cognizable by the constituted authorities, to pay fine to Govt., and damages to party injured.

S. 66. VIII. 1793.

LABOUR.

LABOUR, with, or without irons, in sentences for less than 5 years, commutable to fine not exceeding the competency of the Court; except in cases of Murder, Dacoity, Highway-robbery, Burglary, Theft, receiving stolen property, Forgery, Perjury, Arson, and Rape.

S. 3. II. 34.

This rule to apply to M., S. A., &c. &c. but not to interfere with general descretion of M. of imposing fetters, or otherwise restraining refractory prisoners, nor to exempt from labour with, or without, irons, convicts who having been relieved from it under this Regn. may escape and be recaught.

S. 4. II. 34.

Prisoners exempted from Labour to be kept separate. See "Prisoners, I. 3."

C. 2. S. 3. II. 34.

(I think it is a great pity that any Prisoner whatever should be exempted from Labour. Civil, and respectable prisoners, should not be exposed on the roads; but I think they ought to be made to work inside the Jail, so as to lighten the expense of their maintenance to their creditors, or to Govt., as the case may be. What can be more absurd than to see all the Abkarree prisoners sitting at their ease, whilst Govt., pays highly for their support?)

S. J. can exempt respectable people from labour.

C. 44. March 28, '07.

In sentence above 5 years, Labour cannot be commuted to Fine.

C. 221. Jany. 27, '37.

LABOUR. Issuing forged coin, documents, &c. &c. does not subject offender to labour in irons.
Con. 899. Septr. 12, '34.

In simple Privity to Burglary, likewise, Labour is commutable to Fine.
Con. 1178. Octr. 5, '38.

But not Accessaries before, or after, the fact.
C. 8. June 7, '47.

Prisoner sentenced to imprisonment for escaping from Jail, is entitled to exemption from labour on payment of fine under C. 1. S. 3. II. 34. for the period of his confinement for that specific offence.
Con. 1215. May 10, '39.

In imprisonment with labour, and fine commutable to further imprisonment, M. can give labour during the 2nd as during the 1st term.
Con. 972. Augt. 7, '35.

The labour during the 2nd term is likewise commutable to a fine. If labour be not awarded for the 1st term, it ought not to be in the other; but if awarded in the former, it is redeemable by payment of a fine in both.
Con. 1264. Decr. 6, '39.

When no specific order is passed for the confinement of a prisoner with, or without, irons, M. is at liberty to exercise his own discretion, and to direct the prisoner to be confined in fetters, or not, according as the same shall appear to him proper, or necessary for his safe custody, from the nature and circumstances of the case, considered with the prisoner's rank and former condition in life.
C. 122. May 11, '13.

Court Martials are empowered by XXIII. 39. to award "imprisonment with, or without, hard labour;" but as no authority is therein given to subject the prisoner to labour "in irons," or "on the roads," a Court martial cannot legally introduce the words into the sentence. But, by the authority of C. 122. May 11, '13, the imposition of fetters on convicts would, the Commander-in-Chief remarks, seem to be left to the discretion of M.
C. 155. Jany. 27, '44.

Fetters not to be imposed for Misdemeanors, except for good reasons to be recorded.
C. 224. Augt. 27, '19.

LAND. LAND, Disputes regarding, see "Possession."

LAND REVENUE.

LAND REVENUE, general considerations regarding.
Collection of by,
1.—Dustuks.
2.—Imprisonment.
3.—Distraint.
4.—Kham Tuhseel.
5.—Transfer to Putteedar of defaulting Puttee.
6.—Farm to Stranger of the defaulting Puttee, or of the whole Mehal.
7.—Sale of defaulting Puttee, or of whole Mehal.

According to the ancient constitution of India, (Preamble XXXI. 03.) the Govt. has a right to a portion of all produce of the soil, unless that right be alienated by special grant. It follows that the Govt. holds a lieu upon this produce, and can insist upon the satisfaction of its demand before the crop is removed from the ground. This principle was at first adopted and acted upon by the British Govt. The instalments of the public demand were so timed, that they fell due before the crop from which they were to be liquidated could be cut. The Collr. and Tuhseeldars were empowered by C. 12. S. 2. XXVII. 03. to place Shaenas, or watchmen, over the crops, so as to prevent their removal, before the Govt. demand had been paid, or security furnished for its ultimate payment. The hardship and impolicy of thus forestalling, as it were, the revenues of the country, are evident. The system is the rude device of a state of society, where there was little security for life, or property, and where property had consequently lost its right value.

Directions. 30.

In the years 1840 and 1841, the practice was altered. The number of instalments was reduced from 8 or 9, to 4; and these were so timed as to fall due *after* the crop, from which they were to be paid, had been cut and carried. The Khurreef kists were fixed for Novr., and Decr. or Jany.; and the Rubbee kists for May and June. The lien for the current revenue upon the growing crop, has thus been formally renounced, and Govt. has declared its intention of looking to the property of the Malgoozar for the satisfaction of its demand.

Directions. 31.

It is important to remember, that this line is only abandoned where there is no balance against the estate. It is in the power of all by paying the balance, to secure themselves from this process. But if they are in balance, every legal means of securing the right of Govt. must be put in force, and this amongst the rest.

Directions. 32.

In the N. W. P. the settlement has been made in numerous cases, not with individual proprietors for their own estates, but with communities of proprietors for certain tracts of land constituting their joint property. The members of these communities may be numerous, united together by peculiar customs, and sharing the profits, and the consequent responsibility for the Govt. demand amongst themselves, according to some local law. Each person is primarily responsible for his own share according to some local rule; but ultimately, in case of his flight, or insolvency, the whole commu-

LAND REVENUE.

nity is jointly responsible. Hence it follows that the Collector is frequently called upon to exercise functions essentially judicial. So long as the Govt. demand is punctually paid, he has no power of interference; but, when default occurs, he is compelled to interfere. He must decide from whom amongst many proprietors the balance is due, and on failing to realize the balance from the defaulter, he must decide when, and in what manner, the joint responsibility of the whole body is to be enforced.

The Collector therefore, in order rightly to discharge his duties, must possess the most complete knowledge of the landed tenures in his district, and of every thing which tends to affect the interests of the agricultural population.

The great desire and object of Govt. is to teach the people self-government. If the proprietor cannot realize his rents from the tenants; or, if the co-parceners cannot settle their quota of payment amongst themselves; or, if any one class oppress another, the Courts of Justice are open to them, and simple means are at hand for rapidly bringing their disagreements to arbitrement. They should be instructed and encouraged thus to conduct their affairs, and by punctual payment of the Govt. demand, to bar all direct interference with their affairs on the part of the Collector.

Directions. 34.

But when once default occurs, it is the duty of the Collector to exert himself with promptitude and vigor.

The first step is to ascertain the cause of the default.

It either arises from *Deficiency of assets;* or from *Embezzlement* of the proceeds which should have been appropriated to the liquidation of the Govt. demand.

Sometimes it occurs that Deficiency of assets arises from wilful deterioration of the estate, and neglect of cultivation. If the defaulters endeavour to deter others either by threats or violence, from cultivating the land, which they refuse to cultivate themselves, the provisions of the criminal law must be enforced against them. The Collector must not hesitate boldly to face a clear case of opposition of this kind. The effectual punishment of such misconduct is a moral lesson to the whole district, which cannot but result in the promotion of industry in other classes, and the security of the just rights of Govt.

Directions. 37.

In general however, Deficiency of assets arises from calamity of season, either want of rain, or floods, or diluvion, or blight, or hail, &c. &c., when the greatest care must be taken to ascertain with promptitude the extent of the loss as soon as possible.

See "Alluvion and Diluvion," "Remission of Revenue."

The other frequent cause of default, is Embezzlement of the proceeds. The right of Govt. to a certain portion of all produce of the soil being held to be prior to all other rights, it follows that till its satisfaction, the nett produce of an estate is a trust in the hands of the Malgoozar, and that a failure to surrender the trust is in itself an act of dishonesty, or, as the law terms it embezzlement.

Directions. 48.

It follows as a natural deduction from this doctrine, that the person who makes the collections in a Mehal paying Revenue, is *personally* responsible for as much as he can be proved to have collected, whether or not he be the rightful owner of the

Mehal. The Civil Courts have uniformly upheld the Revenue Officers in the exercise of this right, and this principle has been made the basis of the course enjoined, as regards Lessees of estates from the proprietors, by S. B. Feby. 19. '46.

See " Kharij Dakhil."

Directions. 49.

It sometimes happens that this misappropriation of assets and refusal to account for them, is wilful, and accompanied by flight or open resistance of authority. In such a case, the landed property is answerable for the balance, and every effort should be made to farm or sell the land. But it may happen that capitalists cannot be found to take the estate, or that the combination amongst those of the same clan with the defaulters is so strong, as to deter purchasers from coming forward. The difficulty in such cases is great, and tries the local influence and fertility of resource of the Collr. The main object must be so to coerce the defaulters, as to make it evident to all that the true policy of a Malgoozar is to be punctual in his payments. In proportion as this is effected, and the agency selected for dealing with the case is good, and the police is strong, will such cases be of rare occurrence, and easy remedy. Recourse may have to be made for a time at least, to kham management; but this will only answer when exercised with great knowledge of the people and unremitting attention to duty.

Directions. 51.

Tuhseeldars are fond of alleging *Shurarut wa naduhinduge* as the cause of default; but embezzlement more often results from the pecuniary embarrassment of the Malgoozar, or from disputes among the different members of the village community.

When the Malgoozar is bankrupt, and there appears no hope of his recovering himself, no hesitation should exist in immediately transferring from him his estate. When his property is about to pass from him in satisfaction of the claims of his creditors, he will naturally cease to be anxious to save it from sale in satisfaction of the Government demand. He will secure for himself what he can from the wreck, and leave the Government and his creditors to get what they can for themselves. The transfer must therefore be so timed, as to prevent the bankrupt from appropriating the value of the crops, and immediately on the first occurrence of default, the property should be attached to prevent waste, and to secure any assets which may be then available.

Directions. 53.

Quarrels amongst the several members of the community are the fertile source of default, and require much judgment in dealing with them. Paras. 84—97, of Directions for Settlement officers, explain in what way the members of these communities are bound together, and how they account to each other for their respective shares. The Settlement record, and the annual Putwarree papers, will show the nature of the tenure, and the names of the proprietors. It is most desirable that every exertion should be first made to realize from the individual defaulter the balance he has failed to pay; but, if this effort be unavailing, it is then necessary that the whole community be made to feel the strength of the bond which unites them, and the obligation of common exertion for the safety of the whole. This tie cannot be

LAND REVENUE.

weakened without altering the whole framework of the community, and introducing a new state of society. If the separate responsibility be disregarded, great injustice is done, and an extensive alienation of property by public sale must take place. If the joint responsibility be disregarded, a revision of the whole settlement must take place. A separate allotment of Jummah on every petty holding must be made, and the Assameewar, or Ryotwar system be introduced, with all the inconveniences and risks to which it is liable.

Directions. 54.

Act I. 41. has provided for this state of things. It has armed the Collr. with power to proceed against each individual defaulter from amongst a community, in the same way that he can do against a Sudder Malgoozar; whilst, at the same time, it avers that the joint responsibility remains unimpaired. Govt. expects that every effort will be made to realize the balance from the individual, before the demand is pressed upon the community.

Directions. 55.

All efforts to realize the Balance from the owners of the defaulting Puttee, may sometimes prove ineffectual. They may have suffered their lands to fall out of cultivation; they may be bankrupt; or they may have absconded. In such cases it becomes necessary to fall back upon the joint responsibility of the whole Community. It must be ascertained what is the village rule for making good default of this kind, as, for instance, by re-distribution of the balance on the shares of the solvent sharers, or by transfer to some coparcener, or puttee, able to pay up the balance, and take the lands. They must be called upon to act upon this rule, and, in the event of any, or all, refusing to comply with it, the recusants, or the whole, must be dealt with as defaulters. This power, conferred by Sec. 10. I. 41. is most important. It holds the community together, and compels them to put forth that united exertion, which is the principal feature of the tenure.

It follows as a natural consequence, that the Collr. should abstain from any act, such as either partial annulment of lease, and holding kham, or purchase by Govt. of the defaulting puttee, which would throw upon Govt. the responsibility for a share of an undivided estate.

The *only* way in which the joint responsibility attaching to all the sharers in such a Mehal can be destroyed, is, by forming the several Puttees, or other component properties unto separate Mehals under S. 30. XIX. 14. If this distinction be not observed, there will be great opening left for fraud of all kinds.

Directions. 58.

The cause of default being ascertained, the Collr. has open to him several legal methods of procedure for realizing the demand. No fixed rule can be laid down to guide him in the course he should follow. The law has allowed an option, and he must exercise his discretion in selecting the course of procedure which will realize the balance with the greatest rapidity and facility, and with the least possible degree of annoyance or expense to the defaulter.

Directions. 59.

The processes recognized by Law are the following; which some are directed against the Mehal itself on which the balance has arisen, and some against the person, or other

property real or personal, of the defaulter. The former rests upon the principle that every Mehal is hypothecated to Govt. for the revenue assessed upon it; and to proceed against the Mehal can never, therefore, be illegal, however inexpedient, or unjust, it may be. Whatever successions, or transfers, may have taken place, a Mehal may always be sold for an outstanding balance, or the settlement may be annulled, and the Mehal be farmed, or held kham; but *the actual Defaulter*, i. e. the person who has received the Govt. share of the produce, and failed to account for it, *is alone responsible in his person*, and liable to imprisonment for the arrear. Property, whether personal or real, others than that on which the arrear has arisen, is only liable to distraint, or sale, when it belongs to the actual defaulter, or is held on a title derived from him subsequent to the default.

LAND REVENUE.

Directions. 60.

1. DUSTUKS, that is, writs of demand, and summons.

DUSTUKS.

The dustuk (see Secs. 3—10. XXVII. 03) is either a written notice of demand; or it is a summons to appear before the proper Revenue authority, and account for the default.

If the Govt. Revenue is not paid on the day on which it falls due, the Malgoozar is liable to have a dustuk issued at his expense, as the lightest penalty for his default.

Directions. 63.

The first dustuk is usually a simple notice to pay. But if this be ineffectual, and payment be not made within the prescribed time, one or more dustuks should be served, either by peons, or horsemen, and these should be writs of summons to bring before Collector, or Tuhseeldar all persons responsible for the balance. The number of dustuks will depend on the number and character of the defaulters. It is not necessary that there be one for each defaulter; and there should be no more than are probably adequate to ensure the attendance of the parties summoned.

The Tuhseeldar should be so well acquainted with the affairs of his district, as to know beforehand how and where, default is likely to occur. He must know whether the crops have been abundant, or not; and whether the Malgoozars are in embarrassed circumstances: he must know whether the members of village communities are in harmony, or at discord, with each other; and the general character of every Malgoozar for punctuality and honesty.

With this knowledge he should be able at once to shape his course on the occurrence of default, and be prepared, immediately on failing to realize by the first, or second dustuk, to report the whole circumstances to the Collector, with his opinion, as to the course which should be pursued, and the reasons for his recommendation.

The Collector should always require this detail to be furnished to him with the greatest promptitude; and having tested it by his own previous knowledge and the records of his office, will make up his mind as to the cause of the default, and the proper mode of proceeding.

Directions. 64.

It is by no means necessary that dustuks be issued at all. If a balance lies over from a former kist when a new kist falls due; or if the defaulter be notoriously bank-

LAND REVENUE. DUSTUKS.

rupt, or determined not to pay, it may be better to follow the principle of C. 2. S. 2. XI. 22. although rescinded, and avoid the expense and delay of a useless dustuk.

Directions. 65, *and Note.*

The new system of dustuks is laid down in S. B. II. Sec. III.

The main principles are,

One uniform system of accounts, dustuks, and tulubanah.

The dustuks to be printed forms, sealed and signed by Collr. and issued in a regular unbroken annual series of numbers.

The period and tulubanah to be uniformly 6 days and 12 annas for piadahs, and 1—8 when served by a sowar.

The whole tulubanah without any deduction whatever, to be credited to Govt.

The employment of muskooree peons to be discontinued, and the dustuks to be served only by Govt. servants on fixed wages of 3 Rs. a month.

These latter to be entertained in proportion to the wants of each tuhseeldar; who, after ascertaining the number he may probably require, will report and obtain Collr.'s permission to appoint them, under a personal responsibility of making good any deficiency of tulubanah arising from an excess of piadahs, each of whom may be charged with serving 3 dustuks at once.

Paras. 53—86. S. B. II.

IMPRISONMENT.

2. Imprisonment.

Every Malgoozar is liable to imprisonment for the balance due from him to Govt.; but any individual contesting the claim, can obtain his release by giving security for the amount, and bringing a suit in the Civil Court to make good his plea.

No person is liable to imprisonment except for a balance due from himself, or some shareholder whom he represents.

An heir or assignee cannot be imprisoned for the default of the person from whom he derives his title.

It is not necessary (S. 11. XXVII. 03.) to imprison immediately upon apprehension. The defaulter may be kept 10 days in charge of the peons who apprehended him, at the Tuhseeldaree, or Sudder office.

Directions. 67.

It is only in peculiar cases that the process of imprisonment is likely to be effective. When the defaulter is living in circumstances which make him fear imprisonment, and when he has resources at once to pay the demand, it may be an efficient process. But on the poor, or the embarrassed it is not likely to have any effect; whilst to the unfortunate, but honest and industrious man, it is a cruel hardship. The Board are averse to the practice; but when a defaulter has been imprisoned, he should not be released on the ground of Insolvency, without executing an engagement declaring that any property he may afterwards acquire, or which may be discovered to belong to him, shall summarily be held answerable for the liquidation of his debt to Govt.

Directions. 68. S. B. II. Sec. VII.

3. DISTRAINT.

LAND REVENUE. DISTRAINT.

The powers of distraint possessed by a Collr. are the same as those possessed by a private proprietor against his tenants, (C. 2. S. 14. XXVII. 03.) and extend to the power of seizing, wherever he may find it, the personal or moveable *(munkoola)* property of the defaulter, except that implements of husbandry, and cattle employed in husbandry, together with the tools of artizans, are not subjected to distress and sale on account of default.

Directions. 69.

This process is liable to very much the same objection as the preceding. The usual defaulters are small landed proprietors, whose personal property is of little value to any but themselves, and is easily removed. If it is distrained and sold, little is thereby realized, whilst they are greatly harassed.

If, however, the defaulter be in good circumstances, and wilfully withholds payment of the just claim of Govt. there may not be a better mode of proceeding, than at once to distrain the most valuable articles of his private property.

Directions. 70.

4. KHAM TUHSEEL.

KHAM TUHSEEL.

Two very different processes are often confounded under this head, namely, *Temporary Attachment* of the property, with an account of the profits on removal of the attachment; and *Annulment of Settlement* with sequestration of profits for a fixed period.

In both, the Collector, or officer deputed by him, is placed in the position of a proprietor; and in both S. 10. I. 45. forbids sale for an arrear. Care is therefore necessary, both in having recourse to the process, and in acting under it.

Directions. 71.

Temporary attachment (C. 1. S. 14. and C. 1. 2. 3. 4. S. 15. XXVII. 03.) is a process which the Collr. is authorized to adopt on his own authority, whenever default has occurred, and the time that is requisite for the completion of other proceedings renders it necessary to prevent waste on the estate. Some time must elapse before a farm, or sale, can be completed; and occasionally even time is necessarily consumed in conducting the preliminary enquiries into the cause of default. In all these cases, it may be necessary to provide that the defaulters who may have become reckless, do not carry off, and appropriate to their own use, the proceeds of the estate. It may also happen that the defaulter has been apprehended, and imprisoned, and that it is necessary to provide a person to take charge of the estate on the part of Govt. In ordinary cases this should be the Tuhseeldar; but whenever the estate is large, or requiring particular care, a Suzawal may be appointed, who will exercise on the part of Govt. all the functions of the proprietor, either for a percentage on the collections, or for a fixed salary.

Directions. 72.

In all such cases, the Govt. officer stands in the place of the defaulter, and realizes what it would otherwise the duty of the Malgoozar to realize. Where the land is cul-

LAND REVENUE. KHAM TUHSEEL.

tivated by non-proprietary tenants, he will collect from them according to the Jummahbundee. Where the land is cultivated by a community of proprietors, he will put in force the local law whatever it may be, as regards balances from former years, and the current revenue, and will collect accordingly. For instance, if they pay the Govt. revenue and village expenses by a rate, or bach,h on their seer land, he will include in the village expenses whatever may be his own authorized remuneration, make the bach,h, and then realize from each accordingly. This power may be exerted with great advantage in cases of default arising from disputes among the community, which prevent them from auditing the accounts of the year, and distributing the burthen on each man's land. The Officer of Govt. does that by authority, which the village Lumberdar was unable by himself to do.

Directions. 73.

It follows also hence, that on default the lieu upon the crop which Govt. originally possessed, and only waived as regarded the current revenue, is immediately revived.

(C. 2. S. 17. XXVIII. 03.)

Whenever an estate is attached, the greatest promptitude is necessary in ascertaining from the Putwarree the extent of cultivation, and a liabilities of each man. Such attachment gives a valuable opportunity of testing, and, if need be, correcting the village records.

Directions. 74.

All collections made during attachment must be appropriated first to the payment of the current kists, and no portion devoted to the liquidation of the balance, till the current kists are entirely made good. Otherwise, it is evident, that when the attachment is removed, the proprietor will be left with a demand against him, and no means of paying it.

Directions. 75.

On releasing the property from attachment, an account should be faithfully rendered of all the collections, and an acquittance taken.

Directions. 76.

Where estates are held kham till revision of jummah under IX. 33.; where an estate being without engagements, is thrown on the Collector's hands, and he is compelled, not from choice, but from necessity, to hold it kham; where an estate is held under attachment because Malgoozars will not pay, and in order to prevent waste until fit arrangements for the future can be deliberately formed; in all these instances it is not requisite to report to the Board, as they are within the competence of Commrs. to approve and sanction.

S. B. II. 111.

Kham Tuhseel, properly so called, is a punitive measure consequent on embezzlement under S. 4. IX. 25. by which the estate can be sequestered for a period not exceeding 15 years. This process cannot be adopted till the expiration of a month after the balance falls due; it involves annulment of settlement; and cannot have effect without sanction of Board.

Directions. 77.

LAND REVENUE.

The Board consider that Kham management is open to several objections, and they require special grounds to be advanced by the Collr. for adopting such a measure in preference to the ordinary modes for the recovery of arrears.

The ryots in Kham mouzahs should be admitted to cultivate on written engagements at rates 16 or 20 per cent. above the jummah; and the Putwaree, or some influential ryot, should be induced to undertake the management, in order to relieve the establishment of as much detail as possible. The proprietors themselves, whose contumacy may have been the cause of declaring the mouzah Kham, should not be allowed to cultivate except on ryotee rates, minus 5 per cent.

In the Jummah Wasil Bakee account of Kham holdings, *all* estates held Kham should be entered, whether as a measure of necessity to secure the Govt. dues, or as a mode of punishment under IX. 25. This statement should be forwarded by Commr. to the Board with 15 days of the close of the Fuslee year.

S. B. II. 107. 109. 112.

S. B. have ruled that estates, or portions of estates, held under collectorate attachment by orders of a Civil or Criminal Court, under V. 27. S. 26. XX. 17. S. 3. IV. 40., should be treated exactly as estates held Kham for arrears of Revenue. A modified statement of Form XIX. Appendix S. B. II. should be submitted, with date of order of attachment, and agency employed.

Under C. 1. S. 7. IV. 08. the pergunnah Canoongoes are bound to keep a counterpart Jummah Wasil Bakee of estates under attachment.

Detailed accounts of these holdings need not be sent to Commr.; but, with the surplus proceeds, are to be held at the pleasure of the Court ordering the attachment, who can call for them at will, and, as the S. B. have ruled, are the proper referees in case of any dispute as to the rate to be demanded on Seer lands.

Commr. 5th Division. March 15. '49.

In the permanently settled Province of Benares, sequestration of profits takes place only under C. 2. 3. S. 17. VI. 1795. It does not expressly involve annulment of lease; but in flagrant cases of embezzlement is unlimited in its duration, and admits of all the surplus collections being carried to the credit of Govt.

Directions. Note 80.

It is necessary to remember on release from Kham Tuhseel under S. 4. IX. 25, whether because of liquidation of arrear, or reduction of Jummah, or any other ground that annulment of the previous settlement had been preliminary to the Kham management, and that re-settlement is therefore necessary. New engagements must be taken from the parties admitted as proprietors; and the opportunity should be taken for correcting the administration papers, and adjusting all the points which are open to adjustment in the formation of a new settlement.

Directions. 80.

* The rights of Mortgagees, &c. &c. in Kham estates, are difficult questions, and each must be treated on its own merits. There is a great difference between merely sending a Suzawul to collect the rents from the ryots in the place of the Zumeendar, and holding Kham with the sanction of the Board. In the first case, whatever is good against

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the Zumeendar,—Mortgage—rent free grant—whatever it may be, is good against the Suzawul. In the second, you collect from all according to the Settlement rates, the Zumeendar and all deriving titles from him, being set aside. When a Zumeendar has leased, or mortgaged his lands so deeply as to incapacitate him from collecting, the only thing Collr. can do, is to set him aside, and to hold Kham, or Farm, or sell the Estate. In holding Kham he should look well to the seer land, that it is not increased, and that a fair rent is levied from it.

Judge not competent to interfere in attachment of an Estate for arrears of revenue.

Con. 1165. July 20, '38.

TRANSFER of PUTTEE.

5. TRANSFER OF DEFAULTING PUTTEE TO SOLVENT PUTTEEDAR,—under C. 1. S. 17. XXVII. 03. and C. 3. 4. S. 3. I. 41.

The Transfer may be in perpetuity; or for a term of years; or until repayment of the balance which has led to the enforced transfer.

In the 1st case, it is in fact an enforced Sale.

In the 2nd, it is a mortgage of the kind commonly known as *Putbunduck*, where the profits are held adequate to pay the interest, and replace the principal, in a certain course of years.

In the 3rd it is an ordinary mortgage, but one in which mesne profits cannot be demanded.

Of these processes it is evident that the *second* is the most lenient, as well as the most convenient, and it is the one generally adopted in practice. The *third* is the one most consonant to the ordinary practice of communities, and is much preferable to farm to a stranger.

As the process rests for its foundation on the well known joint responsibility of the whole community, so it results that the joint responsibility is by no means weakened by its enforcement. The whole Mehal is still responsible for the revenue assessed upon it, and if the transferee ultimately default, the transferred portion is, notwithstanding the transfer, as liable to sale as any other part of the estate. It also results from the nature of the transaction, that the transferee's interest in the transferred Puttee is both heritable and transferable.

Directions. 81.

When the object is to recover the arrear due on a single Puttee, or to get rid of one or more insolvent Putteedars, a transfer must be made of the defaulting puttee to one or all, of the solvent puttees, with a condition of restoration after a term of not more than 15 years. In this case the only change will be the transfer of the interest of the insolvent, and the mehal will remain in all other respects on its former footing, and will be liable to be sold, or farmed, in case of arrear as before.

S. B. II. 103.

The Board are opposed to any condition of repayment of the balance by the defaulting proprietor, prior to his re-entry at the termination of the lease, in cases of temporary transfer of Puttee under I. 41. In case of a temporary transfer, the ousted owners will recover their proprietary title with the lapse of the term of transfer.

S. B. No. 3. July 6, '41.

LAND REVENUE.

LAND REVENUE. TRANSFER of PUTTEE.

When a Puttee is transferred to a solvent Putteedar under I. 41. or XXVII. 03., the transferee acquires in the transferred puttee, the rights of a proprietor, or of a mortgagee, according as the transfer is in perpetuity, or temporary. The right thus acquired is transferable, and therefore no collateral security is necessary, nor can the transferee be called a "stranger."

G. O. June 16, '47, contained in S. B. No. 15. July 23, '47.

Recourse should always be had to this process, if possible, whenever a part only of the joint proprietors default. The Collr. should not wait till tender is made to him by the solvent proprietors. He should invite their tenders, and should explain to them the advantages of thus preventing the intrusion of strangers into the estate.

Directions. 82.

Such cases to be reported under C. 1. S. 17. XXVII. 03. without any loss of time.

If the other Putteedars do not choose to take charge of the defaulting puttee on the terms offered, the Collr. must proceed against the whole mehal under IX. 25.

Where a particular Putteedar has been an habitual defaulter, and a hindrance to the prosperity of the estate, his exclusion in perpetuity, and permanent transfer of his share may be recommended under C. 1. S. 17. XXVII. 03.; but the Board will only support such a recommendation on the fact of habitual misconduct being clearly established.

The excluded sharers will remain in possession of their nij jote; and a column is added in the form of Appendix XVII. for the purpose of shewing the terms on which the transferee engages to allow the insolvent Putteedars to hold such land.

S. B. II. Sec. V.

Act I. 41.

Sec. 1.—The Regns. authorize the application of duress for enforcing the payment of arrears of revenue, only against the person and property of the contracting Lumberdar, leaving him to proceed against the Putteedars by suit, or distraint. But with reference to the peculiar nature of the Coparcenaries, the existing enactments appear to be insufficient for the protection of the rights of the Putteedars, and for the punctual realization of the Govt. dues. They are also deficient in not authorizing with sufficient distinctness, the Sale 'or Transfer' of the Puttees of defaulting Putteedars in Putteedaree estates, and in not defining the interest intended to be conveyed by public sales of such estates.

S. 3.—The following modes of duress may be enforced against all Putteedars whose tenure and interest may have been defined by a Settlement formed under VII. 22. as modified by IX. 33. whether every such Putteedar be in sole occupation of his Puttee, or hold it in common with others.

1st. Issue of Dustuks, the same as for Lumberdars.

2nd. Arrest, detention, imprisonment, distraint and sale of personal property, as for Lumberdars.

3rd. Transfer of the defaulting Puttee in perpetuity to the members of any other Puttee which may not be in arrear.

4th. Annulment of the Settlement as regards the defaulting Puttee, and lease thereof to the members of any other Puttee which may not be in arrear, or to a stranger, for any term not exceeding 15 years.

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5th. Sale of the defaulting Puttee by public auction, in which case the members of the remaining Puttees who may not be in arrear, are competent to bid.

S. 4.—If the Lot shall have been knocked down to stranger, any Putteedar not being himself in arrear, may claim to take the Puttee at the sum last bid, provided he claims pre-emption on the day of sale, and before Collr. shall have left office, and fulfils all the other conditions of sale.

S. 6.—Sale rules the same as those for sale of an entire Mehal.

S. 7.—Excluded Putteedar not to cultivate any land in the transferred Puttee, without executing a written engagement to pay to the transferee at the rate he demands. But it is competent to Collr. if the rate cannot be fixed by private bargain, to cause it to be fixed by a jury of the vicinage in the mode directed by S. 5—10. IX. 33.

S. 8.—A copy of the Jummah Wasil Bakee and detailed Kuteonee of the Tuhseeldar, signed and sealed by him, and countersigned by the Canoongoes and Putwaree, exhibiting in detail the amount paid by, and arrear due from, each Puttee, shall be taken to be sufficient evidence of the arrear due from that Puttee ; and these papers shall invariably be filed with the Collector's proceedings. (This does not render it necessary that the Tuhseeldar should always keep a distinct Jummah Wasil Bakee for the owner of every property in a coparcenary estate. In general, the Mehal may be considered as one head of account ; but any specification made by the malgoozar of the persons on whose account the sum is paid in, should be shown in the Tuhseeldar's accounts. When in the event of default, it may be necessary to proceed against the several proprietors under the terms of the Act, it will then be necessary to make out a separate Jummah Wasil Bakee against each Puttee, or individual.

But it frequently happens that owing to disputes, there may be difficulty in preparing this document. The decision of this dispute will require much care and judgment. It may be that the accuracy of the document is called in question by the parties concerned, in which case further enquiry, and perhaps eventual amendment of it may be necessary. It may be pleaded that the extent of the property is wrongly stated, or that the *bach,h* is wrongly adjusted, or that the properties are not so separate that distinct responsibility can be established, so as to render the terms of the Act applicable. Each of these pleas should be heard, and carefully weighed. The Law, by requiring that the papers in question shall be invariably filed, provides a safeguard against the hasty enforcement of the Act contrary to the acknowledged customs of the people ; but the Collr. is not bound down to the blind reception of the papers in question, or to implicit reliance upon them.

Directions. 56.

It may be objected that the joint estate is Zumeendarree, (see P. 87. Directions to Settlement Officers ; and " Landholders' tenures") that the collections are made by the Lumberdar, who is bound to account to the village community, and that the Lumberdar has not rendered a faithful account, so far as the interests of the defaulter are concerned. This is no doubt a valid excuse, and deserving enquiry. If in all its parts it be proved, the estate is not one in which the Act ought to be enforced. If, on the other hand, it appear that the defaulter was a party to the annual adjustment of accounts, *(Boojhárut)* assented to it, and received his portion of the profits, and subsequently embezzled them, then the separation of properties for the year will have been complete, and the separate responsibility may be enforced.

Directions. 57.

S. 9.—Collr. empowered to give possession to purchasers and transferees in the mode authorized by C. 3. S. 23. VII. 22.

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S. 10.—Nothing contained in this Act to bar the indefeasible right of Govt. to hold the entire body of proprietors, and the entire estate, responsible for the amount of the whole Jummah, and to enforce the existing Regns. for transfer, or sale, of the whole estate, whenever it shall appear just and expedient.

RULES BY THE SUDDER BOARD.

1. The proprietors of an undivided Mehal are jointly responsible to Govt. for the whole of the Jummah assessed on the Mehal.

2. 3. 4. See "Partition on application of Parties."

5. All proceedings which destroy, or impair the joint responsibility, such as the purchase by Govt. or the Farm to a Stranger, or the Kham Tuhseel of a Puttee of an individual Putteedarree estate, should as a general rule be avoided; unless it be ascertained that the adjustment of the Jummah correspond with the capabilities and assets of the Puttee at the time the measure is proposed, and that there be no design on the part of the Proprietors fraudulently or collusively to free themselves from the responsibility to which they are legally liable.

6. The joint responsibility may be enforced by selling, or farming, the entire Mehal, or by holding it Kham for a balance due from an individual proprietor, or from a Puttee; but these measures should not ordinarily be adopted, till efforts to realize the balance from the actual defaulters have failed.

7. When default has occurred, and it becomes necessary to adopt coercive measures for the realization of the balance, great difference should be observed in collecting from the sharers in an undivided Putteedarree estate, and from the proprietors of separate estates. The proceedings in the former case should be always carried on in immediate communication with the Lumberdars, and the ultimate joint responsibility should be kept in view, and used as the means of lessening the costs of the process, and of educing the combined efforts of all members of the community for the liquidation of the balance.

8. Exceptional cases may arise in which the prosperity, or existence, of the community may demand that the joint responsibility be suspended, as relinquished, as they sometimes occur in which the Govt. demand on entire estates must be suspended, or relinquished. Both proposals are of the same nature, and rest upon the same considerations.

S. B. May 8, '49.

6. FARM TO STRANGER OF THE DEFAULTING PUTTEE, OR OF THE WHOLE MEHAL.

FARM.

The Regulations which authorize this process are vague. C. 4. S. 17. XXVII. 03. empowers the Govt. to let on lease the lands of any person who may be dispossessed on account of arrears, without any restriction as to period, or otherwise. S. 4. IX. 25. empowers the Collr. with sanction of the Board, and subject to orders of Govt., when a balance remains unpaid for one month in estates not settled in perpetuity, to annul the Settlement, and let the Mehal in farm for a period not exceeding 15 years. It is usual now to act under this latter clause, and to make the process as mild as possible, by reducing the term of farm to the shortest possible limit, with power of re-entry on its expiration for the Malgoozar, without repayment of the balance.

Directions. 85.

LAND REVENUE. FARM.

In selecting a Farmer, the preference should always be given to any person possessing a right of property in the estate, or whose land may be contiguous to, or intermixed with that of the Defaulter.

Directions. 86.

Leases of alienated villages should never be made with former Zummeendars, without permission of Commr. on a special report; and that permission should in no case be given, without taking real and ample security. Otherwise, the practice is a mere fraud upon Govt.

S. B. Octr. 19, '38.

When the object is to annul the lease of a whole mehal, and to let it in farm to a stranger, the case is to be reported under S. 4. IX. 25.

In some districts when the existing settlement has been annulled, the consequent farming lease has erroneously been fixed invariably at the maximum term of 15 years, without any reference either to the amount of the arrear, or condition of the mehal.

The Board's object in introducing this proceeding was to provide a secondary penalty, which being unhesitatingly and promptly applied in every case of default, might afford the exact degree of duress required to effect the punctual realization of the public demand, and at the same time enable them to dispense, in all but extreme cases, with the severe remedy of public sale.

Fully to carry out this object, however, the degree of duress should be in each case exactly proportionate to the necessity for its application. But this essential point is disregarded entirely, if the maximum penalty is equally applied to every case.

Where, for instance the arrear is comparatively small, and the mehal is profitable, a capitalist may be found willing to pay the arrear for a lease of 3 or 5 years.

In such cases the Collector should consider himself a trustee for the concerns of the defaulter, as well as of the Govt., and should never lose sight of the interests of the former, so far as they may be found compatible with the recovery of the dues of the latter.

There are cases where the defaulter is notorious for habitually and wilfully withholding payment of the dues of the state, in which a longer exclusion than would be required for the mere recovery of the amount due, is perfectly justifiable as a penalty. Where such reasons exist, they should be distinctly stated in the column of remarks, and the Board will not object to confirm the arrangement, but it is particularly desired that the Collr. should attend to fixing the term of exclusion, whether under XXVII. 03. or IX. 25, with constant reference to the particular circumstances of each case. The Board will then always be enabled to confirm the order without hesitation, and no part of the moral effect of the procedure will be lost.

The Commr. is not at liberty to alter the term of exclusion when once fixed by the Collector. The transaction is a distinct bargain, which both parties, the Collr. and lessee, are equally bound to maintain. The Collrs. have been instructed to consider the interests of the proprietors, as well as of the farmers, and in effecting the indispensable object of recovering the Govt. dues, to obtain from the farmer conditions as favorable to the zumeendar as they can. But the bargain once made is binding on the Revenue authorities as well as on the farmer, and can no more be altered by the one, than the other.

The Commr. may, if he thinks the Collr. has made an improper arrangement, at once annul it, and direct him to make a fresh bargain ; but the Commr. by this act takes the whole responsibility on himself, in case of any subsequent failure, or difficulty ; a responsibility which the Board would be unwilling to assume if they entertained a favourable opinion of the Collr.'s judgment. But if the transaction be not at once annulled, it must be confirmed as it stands. The Commr. has no authority to alter the stipulations once agreed to on both sides.

S. B. II. 89—95.

The process under S. 4. IX. 25. involves annulment of Settlement, so that the farming Jummah is not necessarily the same as the former Jummah ; and after the expiration of the lease to the farmer, the estate is open to resettlement on the assets, and the old proprietors, on whatever terms they may be re-admitted, should be required to enter into new engagements, and to complete all the other documents required on the settlement of an estate.

S. B. June 9, '37. *Directions.* 88. S. B. II. 96.

Forms for reporting cases instantly S. B. No. II. 101. Statement XVII. A. *Directions.* Appendix X. Collr. must report without the least delay to the Commr , and the Commr. should lose no time in forwarding the report to the Board. If Commr. desires to make any enquiry, he should do it immediately on receipt of Collr.'s report, and Collr. will be held responsible for replying without delay. The Board should receive the Statement within 6 weeks of the new lease taking place ; and where any intermediate correspondence has occurred, the fact should be stated, with the dates of the letters.

S. B. II. 101.

If the Jummah of the new settlement exceed that of the past, the surplus should be first applied in liquidation of the arrear, which being satisfied, a malikana allowance may be allotted to the excluded proprietor, if the increase obtained will provide for such payment.

S. B. II. 97.

Care must be taken that an arrear of revenue has been due for one clear month before transfer is proposed ; and in issuing proclamation threatening annulment of Settlement, the Collr. should fix 15 days as the period, within which the zumeendars can come forward and stay execution of the process by payment of arrears, the term of 15 days, commencing from the date of actually fixing up the proclamation, not from the date on which it is ordered to be issued.

If the zumeendars fail to make arrangements within that time, after being carefully warned of what is intended, the lease should be confirmed to the farmers.

A condition should be inserted in all such farming leases, binding the lessee not to sub-let these Govt. farms without previous consent of the Collr., on penalty of the lease being null and void. The same rule applies not only to leases under this Regn. but to any other farming settlement which Collr. may make.

Directions. 89. S. B. II. 98. 99. 100.

" With regard to the sub-letting of Estates, we concur in the opinion that the rule against that practice should not be too rigorously enforced. The application of a Farmer

LAND REVENUE. FARM.

to be allowed to sub-let his farm should *not* be refused, unless there is ground for believing that a compliance with it would be detrimental to the interests of Govt. or the welfare of the cultivators.

Court of Directors. Para. 56. No. 9. Decr. 29, '48.

Such lease is a personal contract between the Govt. and the farmer, who may, in fact, be considered the manager of the estate on the part of Govt.; and it is neither heritable nor transferable. On the death of a single farmer, his heir does not inherit of right, but the farm lapses, unless it be thought expedient to renew it with him. If the heir be a qualified person, and there be no dispute existing, there can be no objection to the Collr. releasing the mehal to him for the remainder of the term; but it should be understood that there is no right in the case, and the Collr. is not authorized to commit the property to the probable mismanagement of women and children. On lapse of the farm within the term, the old proprietors cannot claim re-entry of right.

If there be more than one farmer, and one of them die, the survivor continues sole farmer; in such a case, no alteration is required to be made in the Collr.'s records, nor has that officer any concern in the matter.

Directions. 87. S. B. II. 102.

Civil Court cannot disturb possession of the Farmer, unless Govt. be made a party to the suit.

Directions. Note 87. S. D. A. Decr. 29, '45.

The above rules not being considered sufficiently explicit, the Board have added the following.

2.—S. 4. IX. 25. is only applicable to estates which have not been settled in perpetuity, and is essentially different from the process of C. 4. S. 17. VI. 95. for Benares, and C. 4. S. 17. XXVII. 03. for the Ceded and Conquered Provinces.

3.—In these, S. 4. IX. 25. has superseded C. 4. S. 17. XXVII. 03.

4.—No settlement shall be anulled by Collr. under S. 4. IX. 25. till the expiration of one clear month after the kist has become due, and of 15 days after the issue, in the Collr.'s and Tuhseeldar's cutcherries, and on the estate of the defaulter, of the proclamation threatening annulment of lease.

5.—The proclamation issued for inviting Farming offers, should require payment, not only of the arrear due at the time of proclamation, but also of any subsequent kists, which may fall due before the expiry of the term; and the Collr. is authorized to decline tender of payment, unless it include the whole balance which may be due at the time it is made.

6.—Payments should be made in cash; but it is in the option of Collr. to receive in bar of annulment of lease, rookahs, or other securities, which he may consider adequate to ensure the early realization of the balance.

7.—Collr. is authorized and recommended to give possession to a farmer immediately after the annulment of the old lease; but the transfer shall not be considered final, till confirmation by Board, given after expiry of one month from date of annulment.

8.—After Board's confirmation, Farmer shall not be liable to be disturbed for the period of his lease, unless Govt. on special ground of hardship, or injustice, interfere to annul the farm, and restore the estate to the proprietor.

9.—The rules above given apply to the farm of an entire Mouzah for the recovery of arrears ; but they may be considered equally applicable to transfers under I. 41. These should be governed by the same rules and principles as transfers under IX. 25. and should be treated in all respects alike, save that, as regards the transfer of Puttees, the arrear *must* be evidenced in the manner prescribed by S. 8. I, 41.

Special Rules for Province of Benares.

10.—The process under C. 4. S. 17. VI. 95. is the only one which can be enforced in Benares, and cannot be carried into effect till the end of the Fuslee year.

11.—If a balance be due in Benares after the last kist of the Fuslee year has fallen due, Collr. is authorized to dispossess the defaulter, and let the lands in farm.

12.—Before leasing the lands of defaulter, Collr. shall issue proclamation inviting farming tenders for the estate within the period of 15 days from the issue of proclamation, at Collr.'s cutcherry, and on defaulter's estate.

13.—If balance be not paid within 15 days, Collr. is authorized to let the estate in farm, and give possession to farmer ; but the transfer so effected will not be final till it has been confirmed by Govt.

S. B. No. 5. June 14, '44.

As no estate, or portion of estate, when thus farmed, is liable to sale for arrears of revenue, sufficient security must always be taken from the farmer, for the punctual discharge of his Jummah ; and the Security Bonds should be registered.

Directions. 89.

The sufficiency of the Security lodged by a farmer must be considered as an essential condition of a lease, which is consequently liable to annulment whenever the security ceases to be valid.

The farmer should always be allowed a reasonable period, being not less than one month, for bringing forward fresh security ; but on his failing to do so, the Collr. should refer the matter for the orders of the Board, stating at the same time his opinion whether, under the circumstances, it is necessary for the security of the revenue that the farm be cancelled. Pending the result of this reference, Collr. will take such precautions as may be requisite to prevent any embezzlement of the proceeds of the land.

S. B. July 30, '47.

Pottahs and Kuboolecuts to and from actual cultivators, to be on unstampt paper, whether Govt. be, or be not, a party to the transaction.

Con. 635. May 20, '31.

Forms for reporting cases instantly, S. B. No. II. Para. 101. Statement XVII. A.

By C. 1. S. 18. XXVII. 03. where arrears are due by Farmers near the close of the year, the recovery of which shall not have been effected by its expiration, certain extreme measures are to be resorted to. The year here mentioned is that according to which the lease was granted, whether Fuslee, or Commercial. When a Balance exists at the close of the 3rd kist, the Collr. is authorized to commence proceedings against the Farmer, whose ejectment ought to take place after the 4th kist has fallen due.

This does not apply to Benares, which is ruled by S. 18. VI. 1795.

S. B. Decr. 3, '47.

LAND REVENUE. SALE.

7. Sale of defaulting Puttee or of whole Mehal.

The Board have strong objections to resorting to sale for the recovery of arrears of revenue, so long as any milder means are available by transfer, or farm; and they require to be thoroughly satisfied of the necessity of the measure, before they can give their sanction to it.

There is, however, one description of case which the Board consider always to afford special reason for bringing a Mehal to sale. This is when the sharers contrive to withhold the Govt. due, and endeavour, by establishing a character for violence and contumacy, to deter persons from accepting a lease, or coming forward to make offers for the purchase of the property. In such cases the mehal should always be purchased by Govt., and such subsequent arrangements made as will effectually defeat their purpose.

The Board do not think it expedient to recommend to Govt. the confirmation of any sale in which collateral interests are involved, unless the express object be, to repress the contumacious bearing of the proprietors; in which case it is reasonable to suppose that all the brotherhood are implicated.

S. B. II. 117—121.

An undivided Puttee should never be bought in by Govt. If no bidders appear, the lot should be withdrawn, and it will then be for consideration whether measures should be taken for enforcing payment of the demand from the entire estate.

Directions. 97.

In deciding on the means to be adopted for recovering an arrear, the *Title* to the property must be taken into consideration. If the proprietor be harassed by expensive litigation, it may be hard and useless to proceed against his *person* and *personal property*, and it may be the best course to transfer the property to another party, either by Farm for a time, or by Sale in perpetuity. This course need not prejudice the rights of any person who has a better title to the estate than the person in possession, because he is at liberty to offer for the Farm, or to pay down the balance, and thus save the estate from sale under S. 9. I. 45.

Directions. 286.

If the estate be the undivided property of one or more persons, and especially if they do not cultivate it themselves, or reside upon it, and above all, if they have themselves acquired it by purchase at public auction, there can be no objection to the sale. It may indeed be advisable that sale should take place in such cases immediately that an arrear has occurred under S. 2. of Act I. 45. without having resort to any other process whatever. If the defaulter is an irremediably ruined man, it is better to sell at once, in order to give a good title to the estate, and to free it from the burthens which prevent its improvement. If the price realized be not adequate, the person and other property of the defaulter remain still responsible.

Directions. 94.

When the estate belongs to a community of cultivating proprietors, and especially when those proprietors are numerous, and supported by other proprietors of neighbouring estates, who are members of the same clan, greater caution is necessary in

proceeding to sale. It can scarcely happen but that in such a case some innocent persons would suffer with the guilty; and it may be that indiscriminate resort to the process may arm the whole population against Govt., and lead to outrages which are greatly to be deprecated. No sale of an entire estate under such circumstances should be proposed, till the cause of the balance has been fully ascertained, every other means of realizing it tried in vain, and the probable adaptation of the means to the desired end, ascertained. The case mentioned above by the Board is the strongest. Here the measure is essentially punitive. The proprietors are to be divested of all their proprietary rights, and reduced to the position of mere cultivators. Such a course may occasionally be deserved as a punishment to individuals, and be likely to act as a salutary warning to others. But to make a punishment effectual, it must be certain. An abortive attempt to punish only weakens authority, and exposes the officer to contempt. The Collr. must therefore be careful to proceed with good temper and discrimination. He must show clearly that the defaulter is contumacious, and that all other methods of persuasion and coercion have failed. He should satisfy himself of the capability of the land to yield a rental sufficient to defray the jummah, supposing it to be properly cultivated; and then, in the event of the sale being concluded, he should exert himself with all the great power at his command, to prevent outrage, and put down forcible resistance to the law. The Collector should further bear in mind, that in order to effect his object, it is not merely necessary to be convinced in his own mind of the fact of the contumacy, and of the necessity of punishing it. He must show the proof of it, on his recorded proceedings, and in his written representations. These only will enable him to justify his actions to the superiors whose sanction he solicits, and to the successor on whom the completion of his plan may probably devolve.

Directions. 95.

The mode of conducting a sale is fully set forth in I. 45. which must be carefully studied by every officer who resolves to act under it. The precautions to be observed are few and simple, so as to leave no excuse if the sale be subsequently reversed for informality.

Directions. 93.

The Provisions of Secs. 7 and 10. I. 41. enable the Collector to determine the position of all cultivators, who were formerly proprietors; and this duty should be promptly performed immediately after the sale, whether a portion only or the whole of the estate, be sold; and whether Govt., or a stranger, be the purchaser. Much of the future peace and prosperity of the estate will depend upon the careful performance of this duty. In performing it, the Collr. as in every other similar proceeding, is bound to see that the just rights of Govt. are not infringed by collusive proceedings.

The Purchaser gets the *Sayer* as a matter of course.

The power of collecting *Cesses* of any kind, depends on whether they were recorded at the Settlement, as required by S. 9. IX. 25.

Directions. 96.

If a sale be had recourse to for recovery of arrears of revenue, that object, and that alone, should be specified in the advertisement; and such sales should not be included in the same advertisement with those which are effected in compliance with decrees of Court, and should always be held separately.

S. B. II. 122.

LAND REVENUE. SALE.

Rules of practice under XII. 41. (XII. 41. has been amended by I. 45. and these rules by those of May 2, '45.)

1.—New law applicable to all sales of land for Arrears, whether entire estates, or only parts, as authorized by I. 41.

2.—No application to sell will be sanctioned, until an attempt shall first have been made to recover arrear by transfer or farm.

3.—Collector responsible for applying milder measures of duress immediately an arrear occurs.

4.—When arrear cannot be recovered without sale, Collr. will, if necessary, attach the lands in arrear, and apply for permission to sell them, furnishing full statement in form annexed.

5.—Commr. will transmit to Board, or give his own orders.

6.—On Board's sanction, Collr. will issue notification of property, and date of sale (never to be less than one clear month from date of notice). It must also contain a clause, warning defaulter that no payment of arrear will bar the sale, unless made by sunset of the day previous.

7.—Care to be taken that copies of Notification be sent to each of the district Civil Courts, to the Thannah, and to the defaulting Mouzah, from each of which receipt must be taken in the manner required by S. 5. of the Act.

8.—Fifteen whole days must elapse between notification and sale.

9.—Written receipt of Offices in which notification is published, and return of Peon stating how it has been made in the village of defaulter, are indispensably necessary.

10.—Serishtadars to be held strictly responsible for any irregularity, or omission; and Collr. should see that the receipts are with the mizl, before proceeding to sell.

11.—If a third party pay the arrear, the sale will be stopped, and the course of Sec. 9. be followed. If this be done in consequence of suit pending, Collr. will send copy of his proceeding for information of the Court.

12.—If arrear be not paid, Collr. will sell, unless ordered otherwise by Commr.

13.—If arrear cannot be recovered in full, Collr. will bid for property, and purchase it for Govt.

14.—Collr. will include in one statement all the properties to be sold, arranging them by S. 14. according to the General Register of the district; and will limit the number of sale days in a year, so as not to exceed one, or, at most two, for Rubbee, and the same for Khurreef.

15.—Secs. 15, 16. require deposit of 25 per cent. at time of sale, and the rest within 30 days. In the first case, a defaulter incurs the penalty of S. 32.; in the second, besides losing the deposit money, he forfeits all claim to the estate, and becomes responsible for any loss on resale.

16.—Such resale must, as in the first instance, be for the Govt. arrear; the proprietor receiving any surplus proceeds, together with difference of price from first purchaser.

17.—For every resale, Notification must be made in every respect as at the first sale.

18.—In completing Sale proceeding, Collr. will be careful to make proclamation suspending payment of rents for the period, and in the manner, prescribed by S. 17.

19.—On the Sale becoming final, a certificate of title is to be granted to the purchaser in the form of S. 21. engrossed on Stamp paper according to note to S. 19. Schedule A. X. 29. and Account Sale forwarded to Commr. in the form page 298. Acts and Orders, 1840-43.

S. B. No. 2. Feby. 4, '42.

LAND REVENUE.

Act I. 1845.

S. 1. The third and following sections of XII. 1841. repealed.

2. If a portion of a kist of any month be unpaid on the first of the following month, such sum to be considered an arrear of Revenue.

3. The S. B. in Calcutta to fix upon what dates all arrears of Revenue, and all demands realizable as arrears, shall be paid up in each *permanently settled* district, in default of which payment the estates in arrear shall be sold at Auction. Such dates to be proclaimed everywhere, and not to be changed by the S. B. except by similar advertisement to be issued at least 3 months before the close of the official year preceding that in which the new dates are to take effect.

4. In *Benares*, and in districts *not* permanently settled, no sale shall take place for arrears of Land Revenue, or other demands of Govt., without the special sanction of the S. B. previously obtained in each several case of sale. The S. B. at the time of authorizing such sale, shall fix the latest day on which in each case such arrears, or demands, shall be received, (i. e. from the *actual defaulter*, as the S. B. have decided that on the day of sale of a mehal, if a solvent sharer pays up the arrear, and claims transfer, the Collector can *exempt* the estate from sale under Sec. 11, and recommend the transfer for sanction.)

5. No estate shall be sold for arrears due from estates in Benares, or from estates not permanently settled, or for arrears other than those of the current or of the preceding year, or due on account of estates other than that to be sold, or arrears of estates under attachment by order of any judicial authority, or arrears of Tuccavee, Poolbundee, &c. &c., without a notification in the language of the district, specifying the nature and amount of the arrear, or demand, and the latest date on which payment thereof shall be received, for a period of not less than 15 clear days preceding the date fixed for payment, according to Sec. 3. or Sec. 4. as the case may be, in the offices of the Officer holding sale, Judge, P. S. A., S. A. Moonsiff, and at the Police thannah in which the estate is situated, the same to be certified by the receipt of each officer; also at the cutcherry of the Malgoozar of the estate, or at some conspicious place upon the estate, the same to be certified by the Peon or other person employed for the purpose.

6. Collr. shall as soon as possible after the latest day of payment, issue notifications in the language of the district, at the offices of Collr. and Judge, and in the official gazettes, specifying the estates to be sold, and the day on which the sale will commence, which day shall not be less than 15, or more than 30, clear days from the date of affixing the notification in the office of Collr. And except as herein after provided, all such estates shall be put up and sold. And no payment, or tender of payment, made subsequent to sunset of the latest day of payment, shall bar or interfere with the sale, either of the time of sale, or after its conclusion.

7. Collr. shall at the same time affix proclamation in his own office, Moonsiffee, thannah, and Malgoozar's cutcherry, forbidding the tenants to pay any rent to the defaulting proprietor from the date of the day after that fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums paid after that date.

8. No claim to abatement, or Remission of Revenue; or the fact of money belonging to defaulter being in the treasury, shall bar Sale, unless after application made by defaulter in due time, Collr. shall have neglected, or refused on insufficient grounds, to transfer it to the credit of the estate.

LAND REVENUE. SALE.

9. Collr. shall, at any time before sunset of the latest date of payment, receive as a deposit from any party not being a proprietor of the estate in arrear, the amount of arrear, to be credited to the estate at sunset, unless before sunset the arrear shall have been liquidated by a Proprietor. Should such party be plaintiff in a Civil Court for possession of the estate, the Judge may order him to be put in temporary possession, subject to the rules in force for taking security in the cases of appellants and defendants. If the deposit was necessary to protect the plaintiff's interest in the estate, he may recover it with interest from the proprietors.

10. No estate shall be sold for arrears accruing under Court of Wards. Ditto an estate the sole property of a minor, descended to him by regular course of inheritance duly notified to Collr., although Court of Wards may not have assumed management under VI. 22., until the minor attain the age of 18 years.

No estate held under attachment by the Revenue Authorities otherwise than by order of a Judicial authority, shall be liable to sale for arrears accruing whilst so held.

No estate held under attachment by order of Judicial authority shall be liable to sale for arrears, accruing during the period of such attachment until after the end of the year in which such arrears accrued.

11. It shall be competent to Collr. at any time before the sale of an estate shall have commenced, to EXEMPT *such estate from sale;* the Commr. has the same power, but his order for exemption shall not affect the legality of a sale which may have taken place previous to the receipt of the order.

Collr. or Commr., shall duly record in a proceeding the reason for granting such exemption.

12. Sales to take place at Collr.'s Cutcherry, unless otherwise ordered by S. B.

13. In case the selling Officer shall be unable from sickness, holiday, or other cause, to commence the sale on the day fixed; or if, having commenced it, he be unable from any cause to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reason for such adjournment, forwarding a copy of such record to the Commr. and announcing the adjournment by a written proclamation stuck up in his Cutcherry, and so on, from day to day, until he shall be able to commence upon, or to complete the sale; but with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed.

14. Sales to proceed in regular order, the estate first on the Toujee being put up first, and so on in regular sequence; and it shall not be lawful to put up any estate out of its regular order by number except under Sec. 15.

15. Purchaser to deposit immediately, or as soon after the conclusion of the sale as the selling Officer may think necessary, either in Cash, Bank of Bengal Notes or Post Bills, or Govt. Securities duly indorsed, 25 per cent. on the amount of his bid, and in default, the estate shall forthwith be put up again and sold.

16. The full amount of purchase money shall be made good before sunset of the 30th day from day of Sale inclusive; in default, as often as such default shall occur, the deposit shall be forfeited to Govt. the estate resold, and the defaulting purchaser forfeit all claim to the estate, or to any part of the same for which it may subsequently be sold; and if the subsequent price bid be less, the difference shall be leviable from him as an arrear of Revenue, and credited to Proprietor of estate sold; and if default of payment of purchase money shall have occurred more than once, the

defaulting bidders shall be held jointly and severally responsible for such differencs to the extent of their respective bids. Resale to be always made after notification in the forms prescribed by Sec. 6., such notification not being issued until the expiration of 3 clear days after the day on which the default shall have occurred.

Payment, or tender of payment, by or on behalf of the proprietor, of the arrear for which the estate was first sold, and of the arrear which may have subsequently become due, if such tender be made before sunset of the day preceding the day of the notification of resale, and after the defaulting purchaser shall have made the deposit required by Sec. 15., shall bar such resale.

17. Commr. can receive appeal on or before the 15th day from day of sale, reckoning as in Sec. 16. ; or, if preferred to Collr. for transmission to Commr., on or before 10th day ; and not otherwise. Commr. on such appeal, can annul sale not conducted according to the provisions of this Act, awarding to Purchaser from the proprietor a moderate compensation for his loss, if the sale shall have been occasioned by neglect of the Proprietor ; such compensation not to exceed interest at the current rate of Govt. Securities, on the amount of deposit or balance of purchase money, during the period of its being retained in the Collr's. Office. The order of Commr. in such cases, final.

18. The Commr. can suspend the passing of final orders in any case of appeal on the ground of hardship and injustice, and represent case to S. B. who can recommend Govt. to annul the sale, and restore the estate to the Proprietor on such conditions as may appear equitable and proper.

19. All Sales of which purchase money has been paid up under Sec. 16., and against which no appeal shall have been preferred, shall be fiinal and conclusive at noon of the thirtieth day from the day of sale, reckoning the day of sale as the first of the thirty. Where appeal has been dismissed by Commr., Sale shall be final and conclusive from date of such dismissal if more than 30 days from day of Sale ; or if less, then at noon of the 30th day as above provided.

20. Immediately on Sale becoming final, Selling Officer to give purchaser a certificate of title.

"I certify that A. B. has purchased at public auction under Act I. 45. mehal C, and that his purchase has taken effect on and since the —— day of —— (being the date of the day after that fixed for the last day of payment.) Signed D. E. Collector."

Such certificate evidence of Title. Collr. to notify transfer by written proclamation at his own cutcherry, Moonsiffee, Thannah, and estate, Purchase money to be applied to the arrears, and outstanding demands against the Mehal, the residue being held in deposit to be paid to the late proprietors according to their recorded shares, or in the aggregate upon their joint receipt. Such residue not to be paid to creditors, except on decree of Court. If so paid, and Sale be afterwards annulled, the Proprietor shall not be restored to possession until he return the amount paid away with interest.

21. Any suit brought to oust the certified purchaser, as having bought on behalf of another person, to be dismissed with costs.

22. Annulment by Commr. to be proclaimed by Collr. in the same manner as finality by Sec. 20. ; and the deposit and balance of purchase money shall be forthwith returned to the purchaser, with interest at the highest rate of public securities, from dates of payment to that of refund.

23. Certified Proprietor answerable for all instalments of Revenue falling due *subsequently to the latest day of payment.*

LAND REVENUE. SALE.

24. No Sale to be set aside by Civil Court except upon the ground of its having been made contrary to this Act, the contravention having been specified in Appeal to Commr. under Sec. 17., and suit brought within one year from date of finality under Sec. 19. No person can contest sale after receiving any portion of the purchase money.

Any person considering himself wronged by any act connected with sale, may bring a personal action for damages.

25. If sale reversed by Civil Court, the purchase money to be returned by Govt. with interest.

26. In the permanently settled districts of Bengal, Behar, Orissa, and Benares, the Purchaser shall acquire the estate free from all encumbrances which may have been imposed upon it after the Settlement, and shall be entitled after notice under Sec. 10. V. 12. (namely, a formal written notice, served on the tenant at the season of cultivation viz. on or before the month of Jeth, notifying the specific rent, under the landholder's right of enhancing it, to which he will be subject for the ensuing year. In all practicable cases, the notification shall be served personally on the tenant; but if he shall abscond or conceal himself, so that it cannot be served personally upon him, it shall be sufficient to affix it at his usual place of residence; or, if he have no residence, at a conspicious place on the land, under VIII. 48.) to enhance at discretion the rents of all under-tenures, and to eject all tenants, with the following exceptions.

1st. Tenures held at a fixed rent more than 12 years before the permanent Settlement.

2nd. Tenures existing at the time of the Decennial Settlement, which have not been, or may not be, proved to be liable to increase of assessment on the grounds stated in Sec. 51. VIII. 1793. namely, special custom of the district, or the condition of the tenure, or that the tenant by receiving abatements from his jummah, has subjected himself to the payment of the increase demanded, and that the lands are capable of paying it.

3rd. Lands held by Khood Kasht, or Kudeemee Ryotts having rights of occupancy at fixed rents, or at rents assessable according to fixed rules under the Regns. in force.

4th. Lands held under bonâ fide leases, at fair rents, temporary or perpetual, for the erection of dwelling Houses, or Manufactories, or for Mines, Gardens, Tanks, Canals, Places of worship, Burying grounds, clearing of Jungle, or like beneficial purposes, such lands continuing to be used for the purposes specificial in the leases.

5th. Farms granted bonâ fide, at fair rents and for specified areas, by a former Proprietor for terms not exceeding 20 years, under written leases, registered within a month of their date, and not objected to by Collr. within 3 months of receiving notice.

Purchaser can bring civil suit to set aside such registered and notified leases, if they have not been granted in good faith, at fair rents.

27. The Purchaser of an estate sold under this Act for the *recovery of arrears due on account of the same*, in Districts other than those mentioned in Sec. 26. shall acquire the Estate free from all encumbrances, which may have been imposed upon it after the time of Settlement, and shall be competent to avoid and annul all tenures which may have originated with the Defaulter, or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryotts or the like settled or credited by the first engager, or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his Settlement, have been competent to set aside, alter, or renew, saving always and except bonâ fide leases of ground for the erection of dwelling houses, or

buildings, or for gardens, tanks, canals, watercourses, or the like purposes, which leases shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force.

But nothing in this Act shall be construed to entitle any purchaser of land at a public Sale to demand a higher rate of rent from any persons whose tenure, or agreement, may be annulled as above, than was demandable by the former Malgoozar, except in cases where such persons may have held their lands under engagement for a lower rate of rent, than would have been justly demandable for the land, in consequence of abatements having been granted by the former Malgoozars from the old established rates by special favor, or for a consideration, or the like, or where it may be proved that according to the custom of the Pergunnah Mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the Regns. of Govt.

28. Govt. may order sale to be made subject to all existing encumbrances, notice being given at time of Sale. If arrear be not realized by such encumbered sale, or if the future realization of the Revenue appear endangered, Govt. can before Sale becomes final under Sec. 19., direct it to be cancelled, and a new sale made with only the usual encumbrances of C. 1.—5. Sec. 26.

If after an encumbered Sale has become final, it again becomes necessary to sell the estate for arrears, such sale may be made either with only the encumbrances of C. 1.—5. Sec. 26., or with the formerly reserved encumbrances. In the former case should the price greatly exceed that formerly realized, Govt. may give the whole, or a portion, of the excess to the encumberers voided at second sale.

29. With the exception of Co-partners of estates under Butwarrah who may have saved their shares from Sale under Secs. 33. 34. XIX. 14., any recorded, or unrecorded Co-partner who may purchase, or repurchase, or otherwise recover possession of an estate sold for arrears; and any Purchaser of an *Estate sold for other arrears or demands than those accruing upon itself*, shall only acquire the Estate subject to all its encumbrances existing at the time of sale, and shall *not* acquire any rights in respect to Ryotts and under-tenants, which were not possessed by the previous proprietor at the time of Sale.

30. Arrears of Rent due to Defaulter on latest day of payment shall, in the event of sale, be recoverable by him by any usual process *except Distraint.*

31. Selling Officer shall be competent to punish any contempt commited in his presence in open Cutcherry, by fine of Rs. 200, commutable to 1 month in Civil Jail; M., to whom offender is sent, carrying the sentence into effect.

The Appeal from any order passed under this Sec. lies to Revenue Commr. whose decision is final.

32. A Default to make good a bid, by making the Deposit required by Sec 15; shall be held to be a contempt.

33. This Act confined to Bengal, Behar, Orissa, Benares, and to the Ceded and Conquered provinces subject to the General Regulations.

Act I. 45.

Under Act I. 45. amending XII. 41. Collr. will apply for Sale as formerly.

3. On receiving sanction, Collr. will be careful to issue notification under Sec. 5. stating latest day fixed by Board for payment of arrear, and warning proprietors.

LAND REVENUE. SALE.

4. If not paid, second notification specifying estates for sale, and date of sale, to be issued, and published in Gazette under S. 6. (Collector should carefully examine the vernacular copy of advertisement before sending it to the Press. S. B. July 21, '48.)

5. Simultaneously Collr. will proclaim under Sec. 7. that the tenants are not to pay rent from the day next after that fixed for the last payment.

6. In case of resale from default of payment of purchase money, it is sufficient to make the notification of Sec. 6. being careful not to issue it until 3 clear days have expired after the day on which the default occurs.

7. By the last Clause of Sec. 16. proprietors of estates under resale are at liberty to tender payment of the arrears, and if the whole be paid before sunset of the day preceding the day of notification of resale, the resale is barred.

8. In granting titles, Collr. will be careful to specify the date of the day after that fixed for the last payment, as that on which the sale takes effect.

S. B. May 2, '45.

Sales should be ordinarily held at the Collr.'s sudder station, unless there should be special grounds for a deviation from this rule; and in such cases the Collr. will furnish a report of the circumstance for Commr.'s opinion and orders.

Collr. should be careful to collate the bynama with the lotbundee and account sale, previous to attesting and delivering it to the purchaser; and will be held individually responsible for any claim which the purchaser may establish in the Courts on the ground of any mistake.

S. B. II. 124. 125.

With reference to note to S. 19. Schedule A. X. 29. the deeds of *all* auction sales should always be engrossed on paper of the prescribed value, the price of the stamp being realized from purchaser, with purchase money.

S. B. Decr. 17, '41.

In the case of balances due from a mortgagee, the mehal on which the balance accrues must be advertized and sold. The original proprietors may obtain possession by application to the Civil Courts. See C. 6. S. 29. and S. 36. XXV. 03. and S. 29. XI. 22.

S. B. II. 129.

Under S. 5. I. 45. "No estate shall be sold for the recovery of arrears due on account of Estates other than that to be sold," except under the rules specified. Therefore the sale of a mehal other than that on which the balance has accrued, must be held in strict conformity with the Act. The proposed sale is first to be reported to the Board, who will fix a latest day for payment. And on the day subsequently fixed by proclamation by the Collr., the sale must either take place, or be adjourned from day to day till completed.

Parcels of Land, houses, orchards, in short all real property not being a mehal, or part of a mehal, are to be sold under S. 47. XXVII. 03. That Sec. prescribes that such property shall be sold under the same rules as lands subject to the payment of revenue, so far as those rules may be applicable. It will be necessary, therefore, to

follow with regard to them the process above described, modifying the statement of proposed sale so as to suit the nature of the case. (This alters Secs. 130—138 of S. B. II.)

LAND REVENUE. SALE.

S. B. No. 19. Augt. 3, '47.

The Rule is absolute, that in *all* Sales by order of the revenue Authorities, of landed estates, the procedure *must* be according to the rules laid down in Act I. 45.

Commr. 5th Division. Octr. 12, '47.

The practice of some Collrs. of leasing alienated mouzahs to the former zumeendars, is strictly prohibited. No mouzah which has been bought in by Govt. should be leased to the former zumeendars, without the permission of the Commr. on a special report; and that permission should in no case be given, without taking ample security. The present practice is a mere fraud upon Govt., giving the lessees all the advantages of property without the responsibility; and depriving the state of all security for the realization of its just dues.

S. B. II. 140.

An undivided Puttee, or portion of an estate, should not be bought in by Govt., when put up to sale for an arrear of Revenue. If no bidders appear, the lot should be withdrawn, and it will then be for consideration whether measures should be taken for enforcing payment of the demand from the entire estate. If it be determined that it is unjust, or impolitic, to hold the entire estate responsible for the default of a part, a regular Butwarah should be made, the puttee in balance should be formed into a distinct estate with a separate jummah fixed on the assets, and then it may be treated as the law requires. If this rule be not observed, there will be great opening left for fraud of all kinds.

Directions. 58. 97. (See also S. B. April 12, '44.)

The Estate on which the balance has occurred is primarily liable to sale for the Govt. revenue. It is hypothecated to the Govt. for the revenue assessed upon it, and, so long as it is in the hands of the owner, or of any person to whom the owner has voluntarily transferred it, must be sold in satisfaction of a balance due from it, before any other real property belonging to the Malgoozar, may be brought to sale. But if the estate be in the hands of a farmer, put in by Govt., either on account of the recusance, or default of the proprietor, then the estate is no longer liable to sale for the default of the farmer, but the balance must be liquidated by the sale of the real property of the farmer, or his security.

Provision is made in Act I. 45. for the sale of estates other than those on which the arrear has accrued, as well as for the sale of estates in balance; but it must be remembered that the latter sales alone convey under S. 27. a fresh and complete title to the purchaser. In the former case, it is only the rights and interests in the estate of the person who is concerned, which can be sold; and the purchaser succeeds to all the liabilities, or incumbrances, which the former proprietor may have incurred.

Directions. 100. S. 29, XI. 22, the principle of which is implied in I. 45.

Sales for arrears in a different Division, to be applied for through the Commrs. Should any objection be made, to be referred to Commr. requesting the sale. The

LAND REVENUE. SALE.

duty of the selling officer is simply ministerial; he is only responsible for the sale being regular.

In sale in another Zillah, Report, with statement of amount due, &c. &c. to be sent to Commr., who will issue order for the execution of the remaining processes of Advertisement. On the completion of the sale, the Collr. effecting it will report it by roobakarree to the Collr. to whose office the balance is due, and remit him the amount.

S. B. Septr. 14, '32.

In sales on Decrees of Court, the Lotbundee should contain a note of the amount demandable against the estate on account of arrears of Revenue, (with consolidated Penalty and Interest by preamble of VII. 30. in permanently settled estates) and the whole to be realized from the proceeds of sale. Should the proprietor whose interest is about to be put up to sale, have acquired it at public Sale for arrears of revenue, he will only be answerable for arrears up to that date, the Bukya balances of previous years being demandable of the former proprietors. If any difficulty occur in adjusting the amount of balance leviable from the proprietor whose interests are sold, whether on account of Khas management, or public sales having occurred at intermediate periods, or from the incompleteness of the records, reference should be made to A. R. D.

A. R. D. Decr. 6, '33. and No. 476. Jany. 30, '34.

Attention is called to Para. 129. No. II. in which it is laid down that in the event of an arrear accuring upon an estate in possession of Mortgagees, the sale of the rights and interests of the mortgagees is prohibited, and the sale of the entire Mehal prescribed.

S. B. May 25, '47.

The Reports furnished on proposing the measure of sale for Revenue balances, are generally defective in respect of the information necessary to enable the Board to form a judgment with regard to the necessity of the measure. The following Rules are therefore to be strictly attended to.

2. The first point to be ascertained and stated clearly is, the nature of the Tenure, whether the Mehal is the property of non-resident, non-cultivating holders, or whether it belongs to resident and cultivating proprietors.

3. In the first case, the bare facts of the existence of the balance, and the nature of the tenure, will be generally sufficient to procure authority for sale.

4. In the second case, the number, caste, and habits of the putteedars should be stated. The *cause* of the balance should invariably be detailed, whether arising from wilfulness, dissension, embezzlement, temporary calamity, poverty of zumeeendars, or other cause.

If the balance arise from quarrels, the subject of those quarrels should be stated, and the reasons why they cannot be composed by the Collr.; if from temporary calamity, the reason why the measure of sale is preferred to suspension of a portion of the Govt. demand; and why the whole are held jointly responsible, rather than the actual defaulters; if from wilfulness, the evidence which indicates that wilfulness.

5. Where it is proposed to sell only a puttee, or a share, the Collector should state what hinders the solvent putteedars, from coming forward to pay the balance, and take the puttee, or share, of the insolvent.

6. The report proposing sale should always be accompanied by a copy of the forms No. 2 and 3, of settlement, and a statement of any change in the malgoozaree record, which may have taken place since Settlement. The present state of the Mehal should be compared with its apparent state at the time of settlement, and the cause of any change that may have taken place should be assigned.

7. When an estate is under mortgage, the nature of the tenure of the proprietors should be stated, as to whether they are resident, or non-resident and non-cultivating; and in the former case, their numbers, habits, and castes.

8. In ALL cases of sale, the Collector must report whether there is a probability of finding purchasers, and whether sale is the sole method of realizing the balance, or whether for some special reason it is preferred to the other modes open to the Revenue authorities.

9. In general, it is not advisable to propose a sale without a prospect of finding purchasers; but to this rule there are the following exceptions:—

1st.—When the balance is owing to quarrels which the Collector cannot compose, when, if there be no purchasers, Govt. should buy in the estate, and thereby acquire the absolute right to settle the quarrels, and, if advisable, the power of restoring the Mehal to such parties as are not in fault, after satisfaction of the balance.

2nd.—When the owner himself purchased the Mehal at auction, either for balance or under decree; for such persons being speculators must abide the consequences.

3rd.—When the balance is owing to wilfulness, or dishonesty, or distress, that Govt. may obtain the power of clearing the estate of the contumacious or worthless, or of restoring it to prosperity by the employment of care and capital.

10. Therefore, whenever a sale is proposed without prospect of purchasers, the Collector should state what he intends to do with it in case of Govt. becoming purchaser; whether he means to break up the community; or to cure the defects in its constitution and restore the ownership; or whether he proposes to first beat down contumaceousness, to restore prosperity under kham management, and eventually sell the estate, when he has rendered it marketable, on account of Govt. (In Sales for Arrears of Revenue, Govt. should invariably buy in when less than the amount of balance is bid. This rule is laid down by Govt., and is absolute. S. B. Augt. 13 '47.)

2. Collector must never refuse any bid on account of its being less than the balance due to Govt.; but he must under general circumstances go on to bid on the part of Govt. to any amount less than the balance.

3. A discretionary power is vested in Collr. to sell an estate to parties other than Govt. at a sum less than the arrear, whenever he has good reason to think that defaulter is possessed of other property from which the balance may be realized; and on completion of the sale he will take immediate steps to recover the remaining balance from such property.

4. When no such property is possessed by defaulter, his estate *must* be bought in by Govt. (in default of other bidders to the extent of the arrear,) at a bonâ fide bid, in excess of any which may be made at the time of sale. In this case the whole original balance will still stand as unrealized in the Collector's books against the estate, till eventually recovered, or otherwise adjusted under orders of Govt.; but the defaulter will only remain personally answerable for the difference, between the price paid by Govt., and arrear for which the estate was sold. The amount of such difference may

LAND REVENUE. SALE.

be subsequently realized from any assets belonging to the defaulter, which may be afterwards discovered.

S. B. Novr. 20, '49.

(Defaulter, knowing that under this rule Collr. must go on bidding to the amount of arrear, will of course get his friends to bid up the property to 1 rupee less than that amount.)

11. To the Collector the mode of disposal of an estate after it is acquired by Govt., ought to be a subject of as mature consideration, as the proposing it for sale.

12. The system of Dustuk, Proclamation, Sale, and blind buying in by Govt., as if a senseless machine were set in motion, will no longer be tolerated by the Board, or by Govt.

S. B. July 2, '47.

It will be observed by a reference to Para. 94. of the Directions to Collectors that there are certain classes of estates, the sale of which it is desirable should take place without having resort to any other process, and immediately on the occurrence of an arrear.

A list of such estates should be drawn up for each district, and submitted for the sanction of the Board; and no addition or change to be allowed except under the authority of the Board.

The list should contain estates acquired at public auction, whether for balances, or under decree of Court, and estates notoriously profitable when held by non-resident or non-cultivating proprietors. There may even be a few cases in which Bhyachara estates, where the assessment is notoriously very light, may be included in this list.

In each case Collectors are desired to give the specific reason for which the estate is proposed for entry in this list.

S. B. July 30, '47.

Lands, forcible dispossession of—see "Possession." "Boundary."
Lands, required for public purposes,—see "Compensation."
Lands Nuzool,—see "Nuzool."

LANDHOLDER. DUTIES and PENALTIES.

LANDHOLDER.—1st. DUTIES, *with penalties for neglect.*
2nd. RIGHTS.
3rd. TENURES.

1st. DUTIES, *with penalties for neglect.*

Landholder, guilty of neglect, or misconduct, in performance of the police duties imposed by III. 12.—6 months, and 200 Rs., or 6 months more.

S. 12. III. 12.

Landholder not to be arbitrarily fined for neglect of Police Duties on report of Darogah. On receiving a report of alleged neglect on the part of a Landholder, M. should not require his personal attendance at Court, before calling on him to furnish, within a week, or ten days, a written explanation of the charge brought against him. Should the explanation be unsatisfactory, or should none be given within the time, M. will

require him to appear before him on an appointed day, in person or by mooktiar, to answer the charge. The witnesses for the charge should be summoned for the same day, and the accused should be directed to bring his own witnesses with him.

The offence is bailable.

C. 52. July 31, '40. S. 12. III. 12.

No charge of neglect of duty against a Zumeendar need be made by any separate prosecutor, the report of a thannadar, or any other information tending to criminate such Zumeendar being, as held by Con. 889. sufficient ground for the M.'s proceeding to an enquiry. Similarly the petition of the Zumeendar must be taken as constituting his defence. He has a right, however, to produce evidence in support of his exculpatory petition, in the manner prescribed in C. 52. ; and cannot be punished without some *proof*, either direct or presumptive, of the fact of neglect.

Letter of S. N. A. to Judge of Goruckpoor, Augt. 14, '49.

Ditto, not sending in list of Watchmen, Rs. 200 fine.

S. 21. XII. 07.

Ditto, or any person whatever, neglecting to give information of resort of any proclaimed dacoit in his estate, or assisting him, 6 months, and 200 Rs. or 6 months more.

S. 13. 14. IX. 08. S. 2. 3. 4. VI. 10.

Ditto, neglecting to give information of any person of bad character released from imprisonment in his village, being absent at night, or associating with bad characters, or ceasing to labour. Rs. 100, or one month in Civil Jail.

C. 6. 7. S. 20. XX. 17.

Ditto,—do.—residence of notorious receiver of stolen property, 6 months, and 200 Rs. or 6 months more.

S. 10. I. 11.

Ditto,—do.—of Robberies,—6 months and 200 Rs. or 6 months more.

S. 4. III. 12.

Ditto,—do.—Murder, Theft, and Arson, 6 months and 200 Rs. or 6 months more.

S. 2. VIII. 14.

Landholder is himself bound, under the prescribed penalties, to give information respecting Dacoitees, Murders, and other crimes within the limits of his estate. It is *not* sufficient that information is received from the Chokeydars. The mode of communicating information is left to the discretion of the Landholder.

Con. 1281. July 17, '40.

M. can compel Landholder to appoint runners to carry the Thannah Dak ; also a house where they may be always found, and a person to receive and forward the packages.

S. 10. XX. 17. Con. 728. Octr. 26, '32.

LANDHOLDER. DUTIES and PENALTIES.

Landholder neglecting to obey such order, liable to fine of 100 Rs. or 1 month in Civil Jail.

C. 5. S. 10. XX. 17.

Appeal lies to S. J.

Con. 1307. July 30, '41.

M. in enforcing the provisions of XX. 17. for securing transmission of Police packets through the Landholders, to exercise his discretion in case of distress or inability.

Con. 728. Octr. 26, '32.

In Goruckpoor, *all* Landholders pay 4 annas per 100 Rs. of Jummah, as a commutation for the above; and are entitled to have all their letters throughout the Zillah carried *free*. A separate establishment is kept up for the transmission of all letters *free* throughout the district. This is a great boon to the people. Hundreds of letters daily pass through the office; and as there is no postage, there are no accounts, delays, or embezzlements. The 4 annas are collected with the Revenue, and made over to M. by Collr. See "Post office, District Dak."

Ditto,—not reporting suspicious deaths, 200 Rs. or 6 months.

S. 14. XX. 17.

Landholder,—on whose estate a Suttee may take place, not to be fined simply upon that ground.

Con. 749. Jany. 4, '33.

No private engagement can absolve a Landholder from the performance of such acts as he is by law bound to perform. He cannot transfer his responsibilities to teekadars, &c. &c.

Con. 1298. May 28, '41, in Gazette of May 3, '42, page 180.

In the absence of the Landholder, the actual manager of the estate is the responsible person, and should be proceeded against, in default of compliance with the requisitions of S. 21. XII. 07.

Con. 1281. July 17, '40.

Landholders should be kept well to their duties, and not be compelled to give extra Chokeydars as a substitute for personal attention.

See G. O. Octr. 19, '44, under "Chokeydar."

Landholders to facilitate the March of Troops, by providing Russud, boats, temporary bridges, &c. &c.

S. 3. XI 06.

On neglect to make proper provision, can be fined by Collr. Rs. 1000.

S. 2. VI. 25.

Landholder conniving at evasion of *Salt* duties, to be fined by M. 500 Rs. or 6 months with, or without, hard labour.

S. 7. XIV. 43.

LANDHOLDER.

For Armoury against offending, or careless Landholders, see the following regulations. **LANDHOLDER. DUTIES and PENALTIES.**

C. 3. S. 3.	XXXV.	1803.
S. 9.	IX.	1804.
S. 19.	XIV.	1807.
S. 2. 3.	VI.	1810.
S. 10.	I.	1811.
S. 4. 9. 12.	III.	1812.
S. 2.	VIII.	1814.
C. 1. S. 14. C. 6. 7. S. 20.	XX.	1817.
C. N. A. 53.	May 31, '09.	
241.	Novr. 10, '20.	

M. is not to compel Landholder to attend to answer for every petty inattention or supposed irregularity in the discharge of the duties entrusted to him, and will carefully avoid a harrassing, vexatious, and indiscriminate interposition of authority over him; but should secure his useful co-operation by a temperate and concilatory, through firm exercise of power,—by a liberal consideration of trivial errors, or defects,—by an uniform acknowledgment of useful services,—and by willing distribution of praise and reward when merited—

C. 241, Novr. 10, '20.

2nd. RIGHTS. **RIGHTS.**

Landholder has the right of establishing Bazaar in his own land, on any days he thinks proper. M. not to interfere on the plea of its interfering with a neighbouring Haut-holder.

C. 66. Decr. 10, '30.

Landholder cannot be prohibited from levying "*Choongee*," provided no oppression, or act of violence, be committed. Con. 973. Augt. 7, '35.; as the rules relative to the abolition of Sayer duties, and the provisions of S. 39. IX. 10. are *not* applicable to any item of Siwall collections, or Cess levied by Malgoozars and others according to ancient custom, which has been *sanctioned by a Collr.* or other superior Revenue authority, not being a tax on the transport, export, or import of goods or merchandise, or other tax or duty specifically prohibited; but after Settlement, the rules and provisions aforesaid shall be applicable to all cesses and collections not sanctioned in the manner specified in S. 9. VII. 22.

S. 9. IX. 25.

Landholder not to be compelled by M. to repair the public Roads passing through his estate.

Con. 1072. March 3, '37.

M. has no authority to call upon a Landholder to provide a building for Police officers stationed upon his estate.

Con. 1247. Septr. 6, '39.

In modification of S. 2. 3. XIV. 12. Landholder cannot grant leases for periods

LANDHOLDER. RIGHTS.

exceeding his own engagements with Govt. *Only the excess*, however, to be null and void.

XVI. 42.

For disputes of Landholders as to Land, see "Possession." "Boundary."

If a Landholder should construct a *Bund* on *his own* land, injurious to the property of another, the case would come rather under the cognizance of the Civil, than of the Criminal Courts; but cases may arise in which the immediate interference of M. would be proper to prevent a breach of the peace, or serious injury to the property of complainant.

Con. 1091. April 28, '37.

TENURES.

3rd. TENURES. 1st. ZUMEENDAREE. 2nd. PUTTEEDAREE. 3rd. IMPERFECT PUTTEEDAREE. 1st. "*Zumeendaree* tenures are those in which the whole land of a mehal is held and managed in common. The rents paid by the Cultivators, whether those cultivators be the proprietors themselves, or not, are thrown into a common stock, with all other profits from the estate, and after deduction of expenses, the balance is divided amongst the proprietors according to a fixed law."

Para. 87. *Directions to Settlement Officers*, 1844. 2nd. Edition.

(This differs from, and supersedes, the original definition in S. B. I. 202. which is, "Pure Zumeendaree, the Board consider to be, where the whole of the land is occupied by non-proprietary cultivators, who pay rent, either in money or kind to the proprietors, whether one or many, and whether collecting rent and paying revenue, severally or in common.")

2nd. *Putteedaree* Tenures (S. 2. I. 41.) are those in which the lands are divided and held in severalty by the different proprietors, each managing his own lands, and paying his fixed share of the Govt. revenue, the whole being jointly responsible in the event of any one sharer being unable to fulfil his engagements.

Directions to Settlement Officers. 88.

(The Board formerly considered tenures to be "Pure Bhyachara or Putteedaree, which are different names for nearly the same thing in different parts of the country, where the whole of the land is occupied by the proprietary brotherhood, and revenue assessed by a rate, or *bach'h*; and where, if there be non-proprietary cultivators, they are not responsible to the general body, but are introduced by some individual sharer on his own ground, and pay him rent for land on which he pays by rate, or *bach'h*." S. B. I. 199—201.)

3rd. *Imperfect Putteedaree* Tenures are those in which part of the land is held in common, and part in severalty, the profits from the land held in common being first appropriated to payment of the Govt. revenue, and the village expenses; and the overplus being distributed, or the deficiency made up, according to a rate (or bach'h) on the several holdings. In such cases the proprietors are said to pay their revenue by *dhar-bach'h*, or beegahdam.

Directions to Settlement Officers. 89.

Shares may be either according to *Law*, that is, each proprietor claiming and pos-

sessing a certain share according to his right derived from a common ancestor, under the code of laws applicable to his religion, country, or caste.

Or, they may be founded on *Custom*, that is, ancestral right is obliterated, or superseded, and a new and arbitrary rule established.

In the former, the share, and proportion of Jummah are fixed, and the holding adapts itself to them. In the latter, the land held by each sharer is itself the measure of his interest in the estate, to the real or assumed value of which the share of Govt. Revenue is adapted.

Directions to Settlement Officers 91—93.

It sometimes happens that the payment of revenue may be according to custom, whilst the division of the Sayer, and the claims to waste land, may be according to ancestral right.

Directions to Settlement officers 96.

The Circular of S. D. A. of June 24, '42. No. 208. modified. The new definitions of Zumeendaree, Putteedaree, and Imperfect Putteedaree contained in Paras. 87. 88. 89. of Directions to Settlement Officers, adopted. Suits should *not* be nonsuited, if they describe accurately the *nature* of the tenure.

S. D. A. 1055. Augt. 3, '47.

See a valuable Note on Talookdaree and Mokuddumee tenures by Mr. Thornton. dated Augt. 24, '44., transmitted with S. B. April 11, '45, fully explaining the tenures, and proving that both parties may have co-existing rights in the same land ; that this is distinctly recognized by the law ; that in cases where he found them to exist, the Settlement Officer under VII. 22. is, subject to the control of the Board and Govt., the sole Judge of the question of jurisdiction, and fully competent to determine, which party shall be admitted to engage for the Govt. revenue, as well as to distribute the nett profits of the estate between the two parties.

The only question which the Civil Court can entertain, is, whether there were in reality two parties, or one alone, possessing heritable and transferrible properties in the land.

It remains for the Board, and Collr. to see that the pleadings are such as to guide the Civil Court to a correct decision upon this sole point left to their investigation. Collr. should see whether the decision of Settlement Officer is defensible on the principles detailed in this note ; if satisfied on this score, he should enter pleadings accordingly in the name, and on behalf of Defendt., through the Govt. Vukeel. If defeated, he will encourage appeal, and report the case in detail to Board. If, after careful enquiry, he deems the case indefensible on just principles, he will abstain from all interference, and leave the parties to fight out their own battle.

The Vukeel should state that S. 4. VII. 22. declares it to be the bounden duty of Govt. to secure every one in the possession of the rights and privileges which he may lawfully possess, and to adjust the respective rights of those who have an interest in Malgoozaree Lands ; that by Sec. 11. the Settlement Officer is competent to investigate and determine the nature of the several tenures in any Mehal, and to correct the errors and omissions of former settlements, by admitting to engagements persons in bonâ fide possession of the land.

It should always be shown that the Settlement Officer's proceedings rest upon C. 1. or 2. S. 10. VII. 22., by which it is enjoined that, whenever several parties are found

LANDHOLDER. TENURES.

to possess separate heritable and transferrible rights in land, the Govt. and its Officers are competent to make choice, and direct which of the parties in possession shall be admitted to engage for the public revenue, on the one condition only, that due provision be made for securing the rights of the remaining parties; and that the only point for the Civil Court to investigate, is simply this, whether the parties possessed the heritable right stated, so as to bring the case under the clauses quoted. It should also be shown, that any interference with the Record of Settlement is quite subversive of the paramount right of Govt. to make the Settlement with whom it pleases, on assigning an equitable allowance in lieu of the title of management.

S. B. May 13, '45.

LAW OFFICER.

Law Officer may have referred to him all petty cases such as are referrible to an Assistant, and has the same power of punishment, namely, in Misdemeanors, 15 days and 50 Rs., or 15 days more.

In Theft, 30 Bents, (commutable to 1 month) and 1 month.

Persons confined by Law Officers not to be fettered, except in case of subsequent misconduct in Jail.

S. 3. III. 21.

See "Magistrate III. 10." "Judge V."

LEAVE of ABSENCE.

Leave of Absence, see "Absence."

Local nuisances, see "Magistrate I. 2."

Local Improvements, see "Chokeydar."

Lotteries, abolished; Person keeping, fine of 5000 Rs. from M. or J. of P. Person speculating upon, 1000 Rs. fine for every offence. Half the fine to go to informer

V. 44..

MAAFFEE.

Maaffee.—The heirs of a Maaffeedar are entitled to the same indulgent conditions of Settlement as the Maaffeedar himself, that is, to a settlement at "half assets," during the currency of the present settlement.

It follows that where land has been resumed and settled during the lifetime of the maaffeedar, the settlement is not to be revised or disturbed at his death; but the heirs are to succeed on the same terms.

Where, again, the land has only been released for the life of the Maaffeedar, the settlement upon his death is to be made with his heirs, (provided they possess the proprietary right) on the same terms that would have been allowed to the Maaffeedar, had the land been resumed during his lifetime.

S. B. July 6, '47.

MAAFFEE, ALLUVION AND DILUVION.

MAAFFEE.

Where a Maaffeedar is merely the Assignee of the Govt. Revenue, the value of suits among the hereditary zumeendars will be determined according to Note 1, Article 8, Schedule B. X. 29., namely, at 3 times jummah for permanently assessed villages, and one year's jummah in others.

C. May 26, '47.

A return of all resumed Maaffee Lands not on the rentroll, to be drawn out, and monthly statements of progress made in settling them to be submitted.

S. B. Jany. 12, '49.

MAAFFEE, ALLUVION and DILUVION.

MAAFFEE, ALLUVION AND DILUVION.—When no clear local usage to the contrary exists, all land cut away by the gradual encroachment of a river is so much lost to the estate encroached upon, and whatever is added by gradual accession, is so much gained to the augmented estate. The land cut away from the one cannot be said to be added to the other, and the reduction on the diluvion from an assessed estate is determined without any reference to the assessment on the alluvion of the estate opposite. C. 1. S. 4. XI. 25. especially states that the increment of land obtained by gradual accession from the recess of a river shall not *in any case* be held to exempt the holder of it from the payment of Govt. of any assessment for the public revenue to which it may be liable under II. 19. There is, however, no necessity for insisting on this point, possessed as the Govt. now is of accurate information regarding the extent of every Maaffee holding. It is just to maintain that right to its full extent, so far as may be consistent with the spirit of the law in this respect. The Maaffeedar may therefore be left in undisturbed rent-free possession of his land, so long as the culturable land gained by the recess of the river does not cause the total area of the Maaffee grant to exceed by more than 10 per cent. that which is entered in the Register now forming under the Board's order of Sept. 3rd, 1839, and Augt. 31st, 1841. If the increment of culturable land cause the total area to exceed by more than 10 per cent. that which is shown in the Register, the excess will belong to the proprietor of the Maaffee estate, *and will be open to assessment.*

If the Maaffee village be entirely carried away, the new accretion which may subsequently be formed will be an increment to the estates in its arrear, and the rent-free tenure will never be revived.

Directions. 214. G. O. Augt. 24, '48.

The alluvial increment to a *Maaffee* declared to be liable to assessment, must be considered a new Mehal, and be entered in the Toujeeh as a new mehal.

In case of default of its assessed revenue, this new alluvial mehal can be sold for the arrear; and in case of deficiency of bids, the Collector, after having obtained leave may proceed to sale of other property of the defaulters; and in such case the rights and interests of those defaulters in the rent-free estate, provided it be transferable property, can be sold after due observance of the practice prescribed by Act I. 45.

Commr. 5th Division. Septr. 25, '48.

MAGISTRATE.

MAGISTRATE:—

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III.—Matters regarding,
1.—*Supreme Court.*
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8.—*Post Office*, see "Post Office."
9.—*Joint Magistrate.*
10.—*Other Subordinates, and Native Judges*, see "Deputy Collr. and Magt." "Assistant."
11.—*Police*, see "Officers of Police," "Corruption," "Bents."
12.—*Jail*, see "Prisoners," "Irons," "Jail."
13.—*Prosecutors and defendants*, see "Charge," "Commitment."

IV.—Commitments, see "Commitment," "Judge of Session," "Confession."
V.—Possession of Land and Moveables, see "Possession."
VI.—Appeals, see "Appeals," "Judge of Session."
VII.—Liabilities.

The general duty of Magistrate towards his subordinates, is the same as that of Collector, detailed under "Collector." In addition may be added the following orders of Court of Directors of Sept. 27, '36.

"I am directed to request the particular attention of the N. A. to the important object of inducing magistrates to make a judicious distribution of their work among their subordinates. The value of a M.'s service, must be more dependent on the skill and judgment with which he directs and controls the acts of all subordinate officers, than upon the work he can himself perform. His time ought not to be employed in details which can be well performed by the ministerial officers. No business that can well be performed by the uncovenanted officers invested with criminal jurisdiction, ought to occupy the time of the covenanted servants, except for the purpose of directing, aiding, and controlling their proceedings. No business ought to be performed by the head of the office, which can be well done by his subordinates, convenanted or uncovenanted, if his attending to such duties will interfere with his more important duties of directing and controlling every branch of his office, and of aiding, instructing and encouraging each in the proper performance of the particular duties assigned to him."

C. 229. May 12, '37.

Connection, and mutual reaction, of Foujdarree and Collectory administration. A state of insecurity, or distress, from bad Police, will tell on the Revenue; whilst harsh and ill-advised Revenue measures, may lead to acts of violence which will discredit the Police. The M. and C. is never, therefore, to throw all his Foujdarree on his Joint M., whilst he confines himself to Collectory; but to remember that he is vested with the entire responsibility for the due performance of all the duties in both offices; and that nothing less than the order of Govt. can relieve him from any particular portion. The Magisterial functions, as those which affect the whole mass of the population, and in which the larger discretion and greater power of working for evil, or good, exists, are those in which the responsibility should be most felt, and in which Govt. has most need to urge its importance.

G. O. April 19, '41.

M. should invariably treat his Police Officers courteously and considerately, instructing and admonishing those who are simply in error, and checking and frustrating those who are corrupt.

Supdt. of Police. Novr. 3. 1845.

When M. proceeds into the interior of the district, he should notify the date of departure and return to the Supdt. of Police.

C. 10. June 5, '38.

I.—General Powers and Cognizance. 1st. as to *Persons*.

GENERAL POWERS and COGNIZANCE as to PERSONS.

M. *not* to exercise any interference in restoring a wife to her husband, when she refuses to remain with him; but to refer him to the Civil Courts.

C. 19. March 8, '39.

All suits and complaints relative to marriage, are cognizable only by the Civil Courts, and not by M.; but the N. A. are of opinion that it is expedient to provide a summary process for such cases, which they intend to include in some future regulation.

Con. 148. March 31, '14.

M. competent to entertain charge of corruption against officer of Commr.'s establishment.

Con. 649, July 22, '31.

(Although there is no regulation expressly authorizing M. to remove the *Chowdrees* of the various trades and professions, it has nevertheless been the universal practice, and the N. A. do not now see any sufficient reason for checking the practice. Con. 816. Augt. 23, '33.) This has been reversed, and M. prohibited from any interference with the election or removal of any Chowdrees.

C. 163, May 6, '44.

By S. 3. IX. 07. the M. is authorized, on a complaint being preferred against any individual, to call upon him to give security to keep the peace, while the charge is under examination.

By C. 11. S. 25. XX. 17. Police Darogahs may, in cases of manifest necessity, re-

MAGISTRATE. GENERAL POWERS and COGNIZANCE as to PERSONS.

quire security to keep the peace from persons apprehended, which, as in the former case, is to remain in force whilst the charge is pending.

By S. 2. IV. 25. the criminal Courts are competent, on the conviction of an individual of any specific offence, to require from him a moochulkah to keep the peace; and, in case of an aggravated nature, to demand security in addition to the moochulkah; and by S. 4. **M.** may take moochulkas to keep the peace from persons not convicted of a specific offence. Con. 831. Septr. 20, '33. Partially superceded by new Act V. 48. see "*Bail*," "*Securities*."

M. *not* competent under *any* circumstances, to release prisoners under sentence. N. A. may in certain specified cases. S. 10. XIV. 16., but *not* for sickness. All applications for the pardon of aged and decrepid prisoners should be sent to G. G. in C. for confirmation. *See new Rules under "Prisoner."*

Con. 841. Octr. 11, '33.

Persons found playing in *gambling* houses. As the Regns. contain no specific enactment on this point, **M.** should, in any case of doubt, take a Futwa from the Law officer, and proceed in conformity with his exposition of the Mahomedan Law. Con. 891. July 18, '34. (A clear order is required, whether playing in gambling houses is, or is not a misdemeanor, punishable by **M.** I think that with exception of the time of Deewallee gambling ought to be considered an overt act of *Budmashee,* authorizing **M.** to demand security for good conduct.)

There can be no doubt that placing a Pig, or Pig's blood, or causing it to be placed in a place of Mahomedan worship: or the building, or attempting, or causing to be built, a place of Mahomedan worship on ground held sacred by Hindoos, or any other similar act committed with the evident wilful intent to offend the religious prejudices of any class, amounts to a misdemeanor, and is punishable as such by **M.** by fine and imprisonment under the Genl. Regns.

N. A. to Governor of Agra, Octr. 2, '35.

Duelling is a crime punishable under Genl. Regns. LIII. 03.

In reply to Mr. Mansel's question, "Is any power vested in **M.** to compel a party who, in the assumed character of Guardian, next of kin, &c. &c. may have enticed away, or carried off, any Infant from another party, to restore the infant to the prosecutor, or into **M.**'s Court, that he may decide to whom the charge of the infant legally belongs?" Govt. think that **M.** had best use his discretion, according to the circumstances of each case.

G. G. June 12, '37.

Person neglecting to provide for his wife and children, to be required to do so;—in default to be imprisoned for 1 month, and so on, toties quoties, S. 3. VII. 19.—unless it is proved that the wife has forfeited his protection by adultery, or wilful abandonment. See "Children."

Con. 992. Decr. 18, '35.

Do. Do. mother of illegitimate children, or the children themselves.

S. 4. VII. 19.

This Sec. 4. does not apply to European British subjects as defendants.

Con. 1141. March 23, '38.

MAGISTRATE.

M. is *not* competent to pass sentence on, or commit persons to **S. J.** for trial for offences committed out of his jurisdiction, except under the special authority of Govt. or **N. A.**; but should send the proceedings, parties, and witnesses, to **M.** of district in which the crime was committed.

S. 2. VIII. 22.

I.—2nd. General Powers and Cognizance as to *Things*.

GENERAL POWERS and COGNIZANCE as to THINGS.

M. may cause to be destroyed useless Records in presence of himself, or Assistant.

C. 88. Septr. 9, '31.

Rules as to the destruction, and papers to be saved.

C. 182. Octr. 16, '35.

Magt. has power to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places; to suppress, or remove, injurious occupations; to prevent such construction of buildings, or disposal of combustible substances as may appear dangerous, and cause removal of buildings likely to fall.

After holding enquiry, **M.** to issue injunction; If not obeyed, fine of 200 Rs., or 1 month without labour;—and if expense be incurred, it can be realized by sale of materials, the surplus being paid to owner.

In the same way, owners of tanks, or wells, may be compelled to fence them.

On receipt of injunction, the Defen't. may, within 10 days, demand a punchayet of 5, three appointed by **M.** and 2 by himself; but if delay is made, **M.**'s order shall stand.

XXI. 41.

Care to be taken to avoid oppression under this Act.

C. 131. May 5, '43.

Under the terms of S. 4. II. 39. no other than a Magt., Jt.-Magt., or other officer exercising the powers of a Magt. is competent to decide cases under Act. XXI. 41.

The removal of a falling tree which threatens danger to the *community*, falls within the province of **M.** as Supt. of Roads, and protector of the lives and property of that *community*.

N. A. Decr. 24, '47.

The majority of the Calcutta N. A. hold that "Magistrates have invariably interposed their authority in cases of *private* nuisances, although not directly warranted by law; but they think the practice so generally beneficial, that they would not order its discontinuance; for it seems to belong to the general duties of a **M.** to prevent injury to another's property, or the incommoding of a neighbour."

The Agra N. A. however express their concurrence in the view taken by the minority of the Calcutta Court that "a civil action is the proper remedy against acts of the kind adverted to, and that Magistrates have no authority to interfere with a view to their

MAGISTRATE. GENERAL POWERS and COGNIZANCE as to THINGS.

abatement." "It may be quite true that the delays of a Civil action are tedious, and it may be equally true that the interposition of the **M.**'s authority in such cases is generally beneficial; but it is the duty of the N. A. *to administer the Law as it stands, not to legislate* for the supposed necessities and comforts of the people;—to bring to the notice of the Legislature such defects in the Law as experience may make known to them, *not* to extend the operation of existing law by a forced construction, or by countenancing a practice which it does not warrant. All parties admit that there is no law which distinctly authorizes the interference of the **M.** to remove *private* nuisances; and the Agra N. A. would prefer abiding by the Law, and appealing to the Legislature for correction of its defects, to proceeding on their own views of expediency."

N. A. Decr. 24, '47.

This view of the case is decidedly the correct one. So long as law is law, it must be followed. If the Law is bad, or defective, it ought to be altered; but this can only be done by the Legislature. It would lead to endless confusion if the Courts could set aside laws on their own ideas of expediency, thus setting themselves up as Dictators, instead of mere Interpreters and Administrators of the Law. In the case of one individual complaining against the establishment of a butcher's shop next door, the Agra N. A. ruled that XXI. 41, was inapplicable. That Act was passed "for the better prevention of local nuisances" with a view to promote "the *public* benefit and comfort," and not for the cognizance of complaints preferred by a *single* individual "on grounds personal to himself." The establishment of a butcher's shop in immediate proximity to the residence of a Hindoo, may be offensive to the latter; but it cannot be considered injurious to the health, or the comfort, of the *community*, and cannot be properly made the subject of enquiry under XXI. 41, unless the whole, or a majority, of the "Community" join in a general representation to that effect.

N. A. Novr. 7, '46.

The N. A. do not prohibit altogether the imposition of wholesome restrictions on the conduct of such unpopular animals as Swine; but they object to the comprehensive measure of shutting them altogether out of a town.

N. A. Octr. 2, '47.

Cases of opening windows looking into a neighbour's zunana; opening a new privy which annoys him; building a new house, the spouts of which injure his thatch, or threaten his foundations; harbouring pigs near his house, &c. &c., are *not* cognizable under IV. 40. (see "Possession.")

N. A. Septr. 4, '47.

Boats on Rivers.

1. The attention of Govt. has been drawn to the losses suffered by the Mercantile Community in consequence of the wreck, or burning of boats laden with Merchandize. Apprehensions exist that these are often occasioned by the misconduct of the Boatmen, or by the rapacity of the inhabitants along the river banks, who thus endeavour to conceal robbery.

2. **M.** is to exercise the greatest vigilance on such occasions. Enquiry must always be made into the cause of such events, and report furnished to **M.**

MAGISTRATE.

MAGISTRATE. GENERAL POWERS and COGNIZANCE as to THINGS.

3. Whenever, on the complaint of the Churundar, or person in charge of the boat on the part of the owners of the cargo, or from any other sufficient cause, there be reason to suppose that the loss, or destruction of the boat is owing to the wilful misconduct of the boatmen, or to the violence of robbers, a searching enquiry should be made into the circumstances, and the suspected persons should be arrested and dealt with as the Law directs. Every means must also be taken for the preservation of the goods which are saved from the boat. For this purpose, the Churundar should not be unnecessarily interfered with ; but he must be supported and protected in the discharge of his duty. If there be not present any Churundar, or person empowered to act for the owners, the Police must themselves take charge of the goods.

4. In order to enable the owners of goods to keep a check upon their Agents, and to inform themselves of the real cause of the losses they may sustain, they will be invited whenever they hear of the loss of a boat, to address to M. postpaid, a communication in English, or Oordoo, in the annexed form. M. will cause a brief abstract to be drawn up in his office, explaining in Oordoo the circumstances of the case, so far as they can be ascertained, and will forward it for the information of the owner, through the M. of the district in which he may reside.

5. These instructions to be carefully followed, and cases of this nature to be specially noticed in the Annual Report.

6. M. will take care to use every precaution that the vigilance now prescribed for the repression of wrong, be not made the means of petty extortion from well-conducted and unoffending travellers, or traders.

G. O. May 5, '49.

M. may sign the roobakarees of his predecessor, when left unsigned from death, or sudden departure, after comparing with English Note-book. (How many Magistrates keep English Note-books?)

Con. 729. Novr. 2, '32.

M. cannot interfere to regulate the exchange of copper into silver.

Con. 751. Jany. 4, '33.

M. can compel surrender of records of a canoongoe, under penalty of resistance to process of M.

S. 9. 10. IV. 08.

M. authorized to grant licenses for export of Arms and Ammunition under XVIII. 41.

G. O.

Intoxication punishable by M. under Genl. Regns. IX. 04.

Duelling is a crime punishable under Genl. Regns. LIII. 03.

Acts committed with the wilful intent to offend religious prejudices, punishable as misdemeanors with fine and imprisonment under the Genl. Regulations.

N. A. to Govt. of Agra, Octr. 2, '35.

MAGISTRATE.

MAGISTRATE. PUNISHMENTS.

I.—No. 3. *Punishments*, see "Prisoners No. 5," "Theft," "Corruption and Bribery," "Landholder," and the headings for which the punishment is to be given.

M. has power to give 6 months and 30 bents, for petty thefts below 50 Rs.; and for other offences, 6 months and 200 Rs. fine, or 6 months more.

S. 19. IX. 07.

In Affrays, regarding Land, Crops, Wells, Water-courses, &c. &c, 1 year, and 200 Rs. or 1 year more, (see "Affray.")

S. 3. VIII. 28.

In Burglary, aggravated thefts, and Cattle stealing, 2 years and 30 bents.

S. 3. XII. 18.

Except in Burglary and Theft in which the passing of consolidated sentences is authorized by VI. 24. and VI. 29. M. cannot pass a consolidated sentence, but must either award a separate punishment in each case, not exceeding in the aggregate the extent of his powers, or commit the prisoner to Sessions, according to the view taken by him of the nature of the offences.

Con. 1395. April 25, '45.

M. cannot punish any of the offenders in a case, where any individual has to be committed.

Con. 622. Jany. 28, '31.

Mangees of ferry boats guilty of gross neglect, may have 6 months, or fine of 200 Rs.

C. 2. S. 13. VI. 19.

Person guilty of cutting embankment maintained at expense of Govt. liable to action for damages, and punishment for misdemeanor.

S. 12. 13. VI. 06.

Person inducing Natives to emigrate. Fine of 200 Rs. for each Native. This repealed so far as regards emigration from Calcutta, Madras, and Bombay, to Mauritius.

S. 1. XV. 42.

No claims of *Ghát Manjees* to be recognized by M., who should promptly punish every attempt to enforce those claims, and especially the detention of boats without owner's consent, or other acts of pretended authority. Beyond this, parties concerned in hiring and letting out boats, must be left to arrange for their mutual interest.

Con. 606. Novr. 11, '31.

M. not to impose fetters in *Misdemeanors*, except on necessity from the bad conduct of the offender during imprisonment, which may render such restraint indispensable for security.

C. 224. Augt. 27, '19.

MAGISTRATE.

M. is *not* competent to fine shroffs for demanding illegal batta or Compy.'s rupees.
Con. 1156. June 29, '38.

MAGISTRATE. PUNISHMENTS.

M. is competent to punish use of short weights and measures as a Fraud, under the Genl. Regns.; but cannot prescribe a current standard of weight.
Con. 1274. Feby. 28, '40.

M. is competent to punish as a misdemeanor under the Genl. powers of S. 19. IX. 07. any act which is declared by the Regns. to be an offence, but for which no punishment is specified.
Con. 1305. Augt. 20, '41.

When a prisoner has been acquitted at Sessions, **M.** cannot punish him for a minor offence, which ought to have formed part of the commitment charge.
Con. 362. March 26, '24.

II.—Office Routine. 1st. *Procedure.*

OFFICE ROUTINE. PROCEDURE.

Judicial proceedings shall not be headed with the names of Heathen Deities.
C. 96. Decr. 3, '41.

M. and Collr. not to hold cutcherry at the same time in the judicial and revenue departs.
C. 151. Septr. 25, '34.

M. may adjudge a reimbursement of costs in particular cases, when such reimbursement may appear just and reasonable.
C. 3. S. 39. VII. 03.

When trying cases, **M.** must be in cutcherry; but **N. A.** cannot say whether he may transact current business in his own house.
Con. 645. July 1, '31.

M. is *not* competent to issue Genl. Warrant, which is illegal.
Con. 766. March 8, '33.

M. can*not* omit the fine, and sentence at once to the full periods of imprisonment authorized in lieu of fine.
Con. 774. March 29, '33.

The **N. A.** are aware that a pressure of public business may occasionally oblige Magistrates, &c. &c. to empower their native officers to record the depositions of parties; but such proceedings should be confined to matters of minor importance; and in all instances, the depositions should be taken *in the presence* of the European officers.
C. 220. Jany. 27, '37.

M. not to be publishing general Proclamations without reference to superior Authority.
C. 264. Augt. 16, '22.

MAGISTRATE. OFFICE ROUTINE. PROCEDURE.

M. in recommending offer of reward for apprehension of criminals, especially when he considers a proclamation under S. 3. IX. 08. necessary, should be careful, in addition to a full report of the circumstances of the case, as prescribed by S. 2. to submit copies of his proceedings.

Ditto when recommending reward under S. 16. XVI. 10.—and when he may deem it sufficient to offer a reward under that Sec. without proclamation of S. 3. IX. 08. he will submit his report to the S. J. as prescribed.

C. 147. April 18, '15.

No one to wear arms in cutcherry.

C. 172. Augt. 7, '35.

In cases of Trespass, &c. &c., where there may be an *un*appealable order for fine below 50 Rs., as well as an appealable order for possession, &c. &c. distinct and separate orders should be passed, so as to keep the final order separate from the appealable one.

C. 135. April 22, '43.

M. not to allow more than the authorized holidays.

C. 50. Feby. 26, '30.

Rules for abridging Proceedings.

In all cases investigated by M. no intermediate proceedings of length are to be admitted. If further investigation, or evidence, be required, an order can be passed to that effect in as many words.

On conviction, M. should give a short record of the grounds of conviction, and a clear statement of the charge, in his final roobakaree, with a list of the witnesses examined; but it is *not* necessary to preface the order with any lengthened details of the facts of the case, or to make abstracts of the reports and proceedings of the police.

On acquittal, it is enough for M. to record, that in his judgment the charge is not proved, and the prisoner consequently acquitted. In heinous cases it may be added, that if new evidence is obtained, proper orders will be passed.

If cases committed to Sessions, all that is necessary to be recorded, is, the charge preferred; a list of the witnesses examined; and the charge on which the prisoner is committed.

In cases before the Police, the depositions of Informant, or Plaintiff, to be taken at length, and very carefully, with the names of witnesses, and what each knows. In Theft, &c. &c. the list of property stolen must invariably accompany Plaintiff's deposition.

The Sooruthals required in Secs. 14. 15. XX. 17. to be sent to M. in place of a report, the moment they are drawn up. Confessions of prisoners to be taken at length and to be subscribed by respectable men of the place, who can read and write.

The depositions of witnesses not to be detailed, but a summary to be given in the simplest form, as A. B. witnessed the murder; C. D. recognized the property; E. F. witnessed the search of prisoner's house, and so on. At the bottom of this summary, Darogah will enter the names of those who witnessed nothing to the purpose. In sending in prisoners, Darogah will enter his reasons for doing so without any recapi-

tulation of evidence, in the Remarks of Chulan No. 2. If Darogahs will still delay, or write long reports, they must be dismissed. In *releasing* prisoners, Darogah to write a similar short, clear statement of his reasons. (see "Officers of Police.")

C. 138. June 16, '43. L. P.

MAGISTRATE. OFFICE ROUTINE.

II.—*2d. Statements and Headings.*

STATEMENTS and HEADINGS.

All cases of *petty assault*, arising out of drunken quarrels, or casual rencontres, and which may not have been attended with a violent breach of the peace, or with wounding or personal injury, to be entered in "Miscellaneous."

Burcundauzes, Chokedars, Zumeendars, &c. &c. summoned for neglect, and permitted to return after being admonished for the future ;—also persons released on Mochulkah ;—to be entered under "acquitted," a note being given in the remarks to distinguish these from free acquittals.

C. 185. Novr. 27, '35.

Killing thieves to be entered under "Homicide," with explanation.

C. May 7, '36.

M.'s periodical reports, &c. &c. to be sent in before 10th of the month.

C. 98. June 27, '42.

M. to have his Annual Statements sent punctually, so that S. J. may submit them to N. A. before 1st Feby.

C. 459. April 2, '44.

When persons under examination at the end of the month, exceed 50, the M. to furnish explanation of the reason.

C. 144. Jany. 25, '15.

Two general, and six particular Registry books, to be kept by M. in which all cases should be entered. The Record Keeper should also keep a general Register.

The Register of III. 12. for persons who have eluded justice, to be duly maintained. (See "Absconding.") The Commr. of 5th Division has adopted the Goruckpoor forms of absconding offenders arranged alphabetically, and cases in which they are engaged, arranged chronologically.

III.—1. Matters regarding *Supreme Court*. See "British subject, European."

SUPREME COURT.

M. not to use forcible means to oust a third party from possession, in execution of decree of Supreme Court. He should confine his aid and assistance to Sheriff's Bailiff to prevent any breach of the peace, leaving Supreme Court decree-holder to sue the third party in a Zillah Civil Court.

Con. 800. June 21, '33.

When a writ of capias is issued by Supreme Court against parties residing in the mofussil, M. is bound to take such measures as may seem necessary to ensure the peaceable execution of the legal process within the limits of his own jurisdiction. He is not to aid Bailiff in breaking into a house ; but may accompany him if he enter the

MAGISTRATE. SUPREME COURT.

premises without breaking in, and ought to prevent any breach of the peace when the arrest is made ; or rescue, after it has been made.

When the Bailiff may apprehend personal violence from the prisoner, he may take steps to have his prisoner bound in heavy penalties towards him.

C. 231. June 12. and C. 232. July 10, '46.

M. and other officers, to assist enforcement of writ of Supreme Court ; but they have no power to remove tenants having tenures and rights of which by law they cannot be deprived by a mere change of proprietor.

S. D. A. C. 31. May 20, '31.

See " Processes." " Magistrate No. VII. Liabilities."

Parties objecting to the execution of a writ of assistance, who were not parties to the suit in the Supreme Court, may petition summarily, in the mode authorized by the Regulation in force for executing decrees of the Mofussil Court.

Con. 636. May 20, '31.

SUPT. of POLICE.

III.—2. *Superintendant of Police.*

Suptt. of Police can interfere with M.'s distribution of work to his subordinates ; but should only do so on necessity. M. allowed a reference to N. A., or Govt.

G. O. Novr. 1, '31.

Powers and Duties, see VIII. 10. and XVII. 16.

Suptt. possesses a concurrent jurisdiction with the Magistrates of his Division. He can either execute his own orders, or order M. to do so.

S. 5. III. 12. S. 5. X. 08.

M. and S. J. to afford Suptt. of Police every aid and co-operation.

S. 6. VIII. 10.

Suptt. can fine, suspend, or reinstate Police, and M. is bound to obey him.

C. 2. S. 11. XVII. 16.

Suptt. when acting as M. subject to S. J.

S. 12. XVII. 16. Con. 82. March 28, '11.

Suptt. can punish for false complaint.

Con. 754. Feby. 1, '33.

Suptt. has the general control over Roads, Bridges, Serais, and Public works.

S. 17. XVII. 16.

Suptt. can direct M. to rescind, alter, or modify any circular instructions connected with the police, issued by him. The S. J. cannot in any way interfere with the exercise of this power.

It being the desire of Govt. that M. should be encouraged often to visit the interior of his district it is no longer necessary that he should report his doing so. (see " Deputation.")

C. 7. Feby. 2, '38. Lower Provinces.

MAGISTRATE.

MAGISTRATE. SUPT. of POLICE.

Suptt. of Police may revise the scale of establishments for Deputy Magistrates, and Officers in charge of sub-divisions, if the aggregate amount of each establishment does not exceed 90 Rs. a month. Proposed alterations should be submitted through M.

Suptt. of Police No. 13. of 1845. L. P.

SUPTT. OF POLICE IN CAMP—to be appointed for Camps of G. G. C. in C. and L. G. N. W. P. by the Govr. Genl.

S. 1. XXVI. 36.

In all offences committed in Camp, or on the line of march, Suptt. to have concurrent criminal jurisdiction with M. of the district.

S. 2. XXVI. 36.

When Suptt. shall commit any person to S. J. or sentence to imprisonment, he shall transmit the prisoner with copy of commitment, or sentence; to which M. shall give effect.

S. 3. XXVI. 36.

All Officers shall assist Suptt. as they would M.

S. 4. XXVI. 36.

Appeal from Suptt. is cognizable by S. J. of the district in which the camp is.

Con. 1370. March 31. '43.

III.—3. *Sessions Judge*, see "Judge."

SESSIONS JUDGE.

No petition shall be received by S. J. on plain paper, except from prisoners confined in Jail.

Con. 657. Septr. 2, '31.

S. J. shall, in all cases of capital punishments, send a copy of N. A.'s sentence to M. with the warrant for execution.

C. 32. March 13, '04.

S. J. has the power of controlling the employment of convicts.

C. 14. July 27, '38. L. P.

S. J. cannot Bent for breach of Jail discipline.

Con. 1302. July 2, '41.

Whenever M. may object to the *legality* of a precept issued to him by the S. J., he may refer it back, and suspend execution until receipt of a second precept, which he must implicitly obey. If still dissatisfied as to the meaning, or construction, of a Regulation, he may request S. J. to forward the paper to N. A.

S. 2. XXII. 03.

If M. neglect to obey any requisition of S. J. in a pending trial, S. J. to report to N. A. either in the remarks on the statements of acquittals and convictions, or in a separate letter.

S. 9. VII. 31.

MAGISTRATE. SESSIONS JUDGE.

Where further investigation appears necessary, in a case decided by M., such enquiry under S. 22. IX. 07. must be instituted by M. who will communicate the result to the S. J. S. J. is competent to order M. to replace on his file a case struck off by him on default.

Con. 1104. Septr. 1, '37. Con. 1169. Augt. 31, '38.

A prisoner having been acquitted of the specific charge on which he was tried, S. J. is competent to direct an enquiry into his character, as a preliminary to a call for security.

Con. 1180. Octr. 19, '38.

In forwarding explanations from M. or J. M. the S. J. should invariably state whether he considers the same satisfactory, or otherwise.

C. 115. Jany. 27, '37.

S. J. shall exercise a full control over the Judicial proceedings of M. in all Criminal trials, whether in receiving appeals from sentences, or from orders; he may also interfere during the investigation of any case.

VII. 35. C. 226. April 7, '37. 231. July 7. '37. 233. May 19, '37. Con. 1104. Septr. 1, '37.

REVENUE AUTHORITIES.

III.—4. *Revenue* Authorities.

Land of all descriptions, required to be attached in criminal cases, shall be attached by Collr., under a precept from M.

S. 3. V. 27. S. 26. XX. 17.

OTHER JURISDICTIONS.

III.—5. *Other Jurisdictions.*

M. to send an officer of his own Court to receive charge of any person apprehended at his request in Calcutta.

C. 40. Octr. 9, '29.

M. can only try, or commit to S. J. in offences perpetrated within the limits of his own district, unless under special authority. If the offence charged be perpetrated beyond his jurisdiction, he should send proceedings, parties and witnesses, to the M. of the district in which it occurred. Should this course be attended with very great inconvenience to parties, M. may report to N. A. for orders.

Where the offence was committed beyond the Company's territory, M. will be guided by Act. I. 49.

S. 2. VIII. 22.

In case of rescue from arrest of Civil Court, M. is *not* competent to order Police forcibly to enter the house wherein the person rescued may be.

Con. 765. March 8, '33.

Inspector of Prisons, see "Prisons, Inspector of."

Cases decided by M. under S. 6. VII. 19. are not open to Civil Action; and the Civil Court, has therefore no power to issue an injunction to M. for the purpose of stopping the execution of his order.

Con. 1158. June 22, '38.

MAGISTRATE.

III.—6. *Military*, see "Camp Followers." "Cantonments," "Carts and Carriage," "March of Troops."

MAGISTRATE MILITARY.

M. to submit a full and distinct report for the information of N. A. and Govt., through the Commr., on all occasions when it may be necessary to call for the assistance of the Military to preserve the peace.

C. 68. Decr. 17, '30.

M. may, in all cases of emergency, write to the officer in command of the troops, stating fully in writing the nature, &c. &c. of the service to be performed, reporting the same to Govt. The Comdg. Officer is immediately to furnish such force as he may consider sufficient, without exercising any discretion in granting or withholding aid, the M. being held responsible for calling out the Troops.

Con. 40. July 4, '08. C. 7. Feby. 2, '38. S. 14. XI. 06.

M. will also report to Suptt. of Police, and S. J.

C. 7. Feby. 2, '38.

Any Guard, or other Sepoy, belonging to any Corps, subject to Military Law, committing any offence *not* involving a breach of Military duty, to be tried by the Civil Court.

C. 3. S. 10. XI. 06.

Sepoy appearing guilty of neglect in guarding prisoners, or any act of a criminal nature while on duty, to be made over to Commdg. Officer, with a charge in writing, for trial by Court Martial.

C. 2. S. 10 XI. 06.

M. is competent, under S. 18. XX. 10. to take up the case of a Sepoy shooting a Havildar, in breach of Milty. discipline.

Con. 760. Feby. 15, '33.

M. has power under C. 1. S. 3. XI. 06. to impress every description of carriage, whether kept for private use, or for hire, for the use of troops on the line of march. Carriage kept expressly for hire should, however, be invariably taken in the first instance; that for private use to be pressed only in cases of emergency. This rule, however, is confined to troops on the march. M. cannot seize carriage for the Commissariat, or Departt. of Public Works, unless required for troops on the march.

Con. 1049. Septr. 30, '36.

M. interdicted from pressing tradespeople and artizans to follow Military Camps, with, or without, remuneration. Such impressment, whether for bazaars, or other purposes, is strictly prohibited; and only legal assistance is to be given to Commissariat.

C. 176. Augt. 24, '44.

Export of Arms, Ammunition, or Milty. Stores without license; fine from M. of Rs. 500. Do. person having more than 50 pounds of gunpowder within 3 miles. The ammunition to be confiscated.

XVIII. 41.

MAGISTRATE. MILITARY.

No persons to dress like Sepoys. Commdg. Officers and M. can strip such of their 'Lion's skin.'—S. 9. XI. 06. Police to apprehend and send in such.

C. 2. S. 30. XX. 17.

Native Soldiers exempted from stamps in legal proceedings, provided the amount be recovered on decree from party cast; and Sipahee lending his name to a case not his own, to be fined 5 times the value of the stamp.

S. 3. 4. 5. XV. 45.

Officers in charge of Police Battalions invested with the powers of Joint M. at the places where their Corps may be stationed.

G. O. Jany. 15, '46.

The pay of a Sepoy cannot be attached in liquidation of a decree against him; but Decree-holder is at liberty to proceed against his person, or property, as in any other case. (see "Treasury," head "Remittances, Sipahee.")

Con. 1175. Septr. 21, '38.

Court Martials cannot sentence to labour *in Irons;* but M. under C. 122. March 11, '13. has discretion to impose fetters on such military convicts.

Con. 155. Jany. 27, '44. Commander-in-Chief, Decr. 4, '43.

Any Military Officer, or other person, travelling through the country by land, or water, is prohibited from sending Sepoys or Lascars into the villages to procure coollees, bearers, or boatmen, or committing any other violent measures of that nature. The doing so is unnecessary, as the Police are enjoined to afford the proper aid when required.

C. 7. S. 9. XI. 06. Con. 234. May 5, '20.

M. to give effect to sentences passed by a Court Martial under XXIII. 39. on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the Commdg. Officer.

II. 40.

MEDICAL.

III.—7. *Medical.*

It rests with Surgeon to decide whether wounded person sent to him for examination, should be placed in the hospital, or not.

C. 142. Augt. 30, '43.

For Rules as to attendance on *Survey* and other Officers, see "Officers, medical attendance of."

In submitting cases requiring Chemical examination, M. should furnish every detail obtainable from Civil Surgeon and others.

C. 129. April 4, '43.

Such references to be made direct to Professor of Chemistry, Medical College, Calcutta.

C. 110. June 24, '42.

MAGISTRATE.

M. to afford the help of his establishment to Surgeon, in preparing his statements.
C. 138. Augt. 9, '14.

M. should furnish Surgeon with all available information regarding supposed cause of death.

C. 152. Novr. 24, '43.

M. should only call upon the Chemical Examiner for report, when the Surgeon cannot afford the required information. C. E. not to be called upon to make affidavit.
C. 1707. Decr. 30, '43.

Civil Surgeon to have nothing to do with Indigo planting and banking. Contravention of this rule to be *ipso facto* a resignation of service.

G. O. Septr. 4, '41.

Sub-Assistt. Surgeons to have 50 Rs. a month extra, when placed in sole charge of a Civil Station.

G. O. April 8, '46.

Sub-Assistt. Surgeons and other Medical officers to report immediately to suptdg. Surgeon the orders which they may receive through the M. or otherwise and the changes which may follow thereupon.

G. O. Feby. 16, '47.

When a commitment to Sessions is probable, the deposition of Surgeon to be taken by M. on oath, as such deposition duly attested and proved as prescribed by Paras. 6 and 7 of C. 54. July 16, '30. would be available as evidence on the trial, in the event of unavoidable absence of Surgeon. The deposition of Surgeon should not be taken, except in cases when his evidence on the trial shall be manifestly necessary.
C. 42. May 1, '40.

Medical Officers when called on by Collector, or other Officer in charge of Abkaree, or Opium Agents, to report on the quality of any seized, or confiscated Opium, which they are to class under the heads of "Good, or perfectly pure Opium;" "Marketable," when having ¼ of foreign matter in it; "Inferior," when containing more than ¼ foreign matter; "Useless" when so adulterated as to be unfit for any of the ordinary purposes of the drug.

S. 20. VII. 24.

For Medical attendance of *Prisoners*, see "Jail," "Prisoners," Diet, and Diseased."

Rules for regulating the promotion and increase of allowances of Sub-Assistant Surgeons.

1. Students of the first Class of the Medical College of Bengal, in obtaining the diploma of the College, shall if they desire it, be admitted to the Public service in the Rank of Sub-Assistant Surgeon.

2. Sub-Assistant Surgeons shall be classed in three ranks; the third rank to be the lowest or junior.

3. All Sub-Assistant Surgeons shall serve seven years in each of the two junior ranks

MAGISTRATE. MEDICAL.

excepting in those instances in which the merits of the individual, as described in Rule 12, shall be considered to entitle him to promotion to a Superior Rank at an earlier period.

4. On obtaining the diploma of the Medical College, the Graduate will, by the orders of Government, be placed at the disposal of the Medical Board, for employment in the Public Service, and from the date of the Government order, his rank of Sub-Assistant Surgeon of the 3rd rank, shall be held to commence; but he will not be considered as having claim to his salary, as such, (that is, at the rate of 100 rupees per month) until he has actually joined the Station to which he may be appointed, and entered on the duties assigned to him.

5. The following shall be the scale of allowances for each rank:

Under seven years' service,	Co.'s Rs.	100
Seven years and under fourteen,	,,	150
Fourteen years and upwards,	,,	200

6. Sub-Assistant Surgeons, on completing each of those septennial periods, shall appear before a Committee, composed of three Medical Officers, for Examination as to their continued proficiency in the practical branches of their professions, viz. Practice of Medicine, Surgery, and Midwifery; as to their acquaintance with its past and current literature; and with the later improvements or discoveries on all points connected with their duties.

7. The Sub-Assistant Surgeon, on completing his septennial period, shall report the same to the Superintending Surgeon of the Division in which he may be serving, who will obtain the orders of the Officer commanding the Station itself, or the one nearest to it, where three resident Medical Officers may be available, for the assembly of the above Committee; the Superintending Surgeon himself serving on the Committee, at Stations where, as at Dacca for example, the number of Medical Officers present may be insufficient without him.

8. The Committee will forward their Report to the Superintending Surgeon of the Division for transmission to the Medical Board, whose duty it will be to submit it for the orders of the Government.

9. Should the Report of the Committee be favourable, the promotion of the Sub-Assistant Surgeon will be notified in Government Orders, and he will receive the salary of his new rank, from the day succeeding the date on which he may have completed his last septennial period.

10. Should the Report of the Committee on the other hand be unfavorable, the Sub-Assistant Surgeon will continue in the lower rank, and on its allowances, for the period for which the Committee may deem fit to remand him to his studies and to the more diligent discharge of his duties.

11. Should the Sub-Assistant Surgeon still fail, at the close of that probationary period, to afford to the Examining Committee, satisfactory proof of proficiency and diligence, his case will be submitted, in the manner prescribed in Rule 8, for the consideration and orders of Government, as to his removal, or otherwise, from the rank of Sub-Assistant Surgeon, or from the public Service.

12. Mere Seniority will, in no instance, constitute in itself a claim to promotion, and it is distinctly to be understood that high attainments, "whether the result of eminent talent or of laborious industry," persevered in for a reasonable time, will give such claim at any time intermediate to the septennial periods; and the Medical Officer

under whom a Sub-Assistant Surgeon may be serving, or the Superintending Surgeon himself, in case the Sub-Assistant Surgeon may be holding an independent charge, shall consider it to be his duty to bring every instance of distinguished merit under the notice of the Medical Board, accompanied by a Statement of the particular circumstances which he may consider as entitling the individual to early promotion, to enable them to judge of the expediency, or otherwise, of recommending the case to the favorable consideration of Government.

MAGISTRATE. MEDICAL.

The Hon'ble Court have ruled that Sub-Assistant Surgeons shall not, at any time, be admitted to the benefit of the rules under which pensions are granted to the Members of the Uncovenanted Service.

G. O. January 6, '49.

III.—8. *Post office*, see "Post office."

POST OFFICE.

M. and Collr. should not mind a little trouble and responsibility in forwarding letters received from Post-office, through their District Dak.

G. O. April 30, '44.

III.—9. *Joint Magistrate*—see "Appeals."

JOINT MAGISTRATE.

M. cannot throw off his own responsibilities upon Joint M.

C. 103. Jany. 25, '42.

J. M. on entering on duties, to subscribe the oath of M. with verbal alterations.

S. 5. XVI. 10. See "*Oaths.*"

In all cases of difference of opinion between M. and "Assistant Magistrate," the latter is to conform to the directions of the former, until a reference can be made; but no appeal lies.

S. 9. XVI. 10.

N. B. This is not Assistant to Magt. but Assistant Magistrate, which is equivalent to the present term Joint M.

J. M. *may* correspond directly with superior authorities when necessary; but all reports, &c. &c. and generally all official communications, should be sent through M.

S. 10. XVI. 10.

Applications for leave of absence of police under J. M. should be sent through him to the M. that J. M. may give his opinion. Con. 210. June 8, '15. 232. Jany. 24, '16, but by order of Govt. dated Jany. 6, '25, it is directed that J. M. should possess exclusive control over the police in his local jurisdiction.*

C. 306. Jany. 28, '25

* By S. 11. XVI. 10. Govt. has been vested with a discretion of defining the powers of Joint Magistrates from time to time as it may deem fit. The order of Govt. of Novr. 1, 1831 supersedes its predecessors, and invests the M. with the discretion of interdicting the exercise of powers otherwise equal to his own by the J. M. in certain cases. The M. is perfectly competent to interdict the imposition of fines upon Police Officers by any officer subordinate to him, without his concurrence; and certainly as regards Tuhseildars, I quite concur with you in the propriety of the interdict. As regards Police officers of inferior grade, subordinate Officers should consult M, and then proceed to impose a fine.

Commr. 5th Division. April 11, '49.

JOINT MAGISTRATE.

Rules :—

4.—J. M. is in all respects subordinate to M. and required to obey his orders.

6—Can exercise full powers of M. unless interdicted by M., who can always limit, or extend his jurisdiction. (M. cannot interfere with J. M.'s order of commitment. Con. 911. Octr. 17, '34. Con. 906. Octr. 10, '34.)

12.—M. can always resume duties made over to J. M.

15.—Suptt. of Police can interfere with M.'s distribution of work to Joint Assist. &c. &c. but should only do so on necessity. M. allowed a reference to M. A. or Govt.

G. O. Novr. 1, '31.

All appeals from J. M. lie exclusively to S. J.

Act XXXI. 41. Con. 1326. Feby. 12, '42.

M. may refer to J. M. cases for report ; but it is infra dig.

Con. 1234. Augt. 9, '39.

700 Rs. Joints to get no deputation allowance when acting for 1000 Rs. Joints.

C. A. July 22, '46.

J. M. being competent to exercise the full powers of M. unless interdicted, is empowered to try appeals from orders of Sudder Ameen in petty criminal cases.

Con. 1231. Augt. 9, '39.

Commitments made by Joint Magistrates to be submitted through M. of Sudder Station, and be tried by S. J., unless G. G. in C. shall direct the trial to be held before any other officer.

S. 12. VII. 31.

SUBORDINATES.

III.—10. *Subordinates, and Native Judges,* see "Deputy M. and Collr." "Assistt." "Commitment No. III." "Judge No. V."

Officers of M.'s establishment, of 10 Rs. and upwards, can act immediately on their nomination, but M. should immediately report the same.

Con. 618. Jany. 14, '31.

M. had better not make over petitions for report to S. A. who should only have trivial cases which he can himself decide, made over to him.

Con. 627. Feby. 28, '31.

Native Judges have the powers of Assistts. under S. 20. IX. 07. namely, In petty assaults and misdemeanors, 15 days and 50 Rs., commutable to 15 days more. In Thefts, Bents, (commutable to one month) and one month, (with labour S. 3. II. 32.)

They can*not* sentence to *irons,* unless M. consider such a measure necessary.

C. 3. S. 3. III. 21.

Cases may be referred for report to Native Judge, but not to Law Officer who can only try cases within his own competency, returning more serious ones without giving an opinion. He cannot examine any prisoner, whom he cannot sentence himself.

C. 30. July 24, '29. Con. 516. July 24, '29. C. 45. Jany. 8, '30. C. 133. Feby. 15, '33.

MAGISTRATE.

All cases under VII. 19, referrible te P. S. A. for report. SUBORDINATES.

Con. 1265. Decr. 6, '39.

They cannot issue perwannahs to Mofussil Police; but must inform M. who will issue necessary orders.

Con. 451. March 30, '27.

The processes of S. A. in criminal cases, should be issued under their own signatures, but under the seal, and through the officers of M.

Con. 741. Decr. 7, '32.

In Zillah Goruckpoor by G. O. Septr. 16, '44, all the Moonsiffs have been invested with the powers of Assistt. Magistrates, with permission to take petitions in petty cases.

The experiment works well, and is a great relief to prosecutors and witnesses.

They form, also, a valuable check on the Police.

Moonsiffs' records to be sent to Police, who will send them in immediately, providing coollees to be paid by indent on C. Judge.

C. 192. Jany. 17, '45.

As Judges know little of the character and connections of those who apply to them for certificates of character, respectability and family connections, previous to being examined for Moonsiffships; they will transmit the certificates to the Commr. who will countersign them, after satisfying himself that the candidates are fit to be Judges.

C. S. D. A. June 7, '47.

Candidates for Moonsiffships will in future be expected to have a competent knowledge of the nature of the landed tenures of the country, and the mode in which the particulars of those tenures are recorded in the settlement proceedings, and in the Putwarree papers. Also of the general system of administration in the Land Revenue Department.

S. D. A. May 11, '48.

Sudder Ameens and Moonsiffs can no longer be fined by Judge.

XII. 47.

Sudder Ameen is not entitled to appeal from order of M.

Con. 1185. Octr. 19, '38.

III.—11. *Police*, (see "Officers of Police,") "Bents," "Corruption." POLICE.

M. can appoint and remove thannah and jail officers, without report or sanction, S. 7. XVII. 16, subject to the orders of Supt. of Police, S. 8. XI. 31. Con. 736. Novr. 9, '32. But when a Naib Darogah has been dismissed under XI. 31. application for the appointment of another must be made to Commr., under letter of Agra Govt., Octr. 27, '34.

M. is *not* authorized under XIV. 16. or any other enactment, to give Burcundauzes hard labour for mere neglect of duty. Con. 712. Augt. 24, '32.

III.—12. *Jail*, see " Jail," " Prisoners," " Irons."

PROSECUTORS and DEFENDANTS.

III.—13. *Prosecutors* and *Defendants*, see " Charge," " Commitment."

M. authorized to furnish to all indigent prisoners under examination, the quantity and description of clothing furnished to convicts, at his discretion.

C. 209. Octr. 30, '18.

In cases of Trespass, Assault, &c. &c. M. had better *not* call only one Defendant, postponing the summons of others until he has taken the evidence for the prosecution; as the Vice-President in Council is of opinion that the rule of C. 6. S. 2. III. 12. is better, (namely, to examine the prosecutor well first; and where he distrusts the truth of the charge, to call the witnesses also, before issuing process against the accused) under the due exercise of the power of punishment of unfounded and vexatious complaints.

C. 19. April 3, '29.

Persons not to be arrested, except in heinous offences, unless the charge be deposed to on oath by complainant, or by credible person on his behalf.

S. 4. IX. 07.

M. not to allow prisoners to be detained at Nazir's house for security, &c. &c.

C. 47. Feby. 19, '30.

In bailable offences, M. should always state on the record the amount of Bail, taking care that it is not excessive.

C. 272. Jany. 10, '23.

A party in attendance on Bail to answer a criminal charge, not liable to arrest under civil process.

Con. 885. May 23, '34.

The Vukeel, or Prosecutor appointed by Govt. is exempted from swearing to the truth of the charge.

S. 4. LIII. 03.

Superintendent of Police may conduct a prosecution before S. J. provided he do not interfere in any other capacity. In cases committed by himself as M. he shall not conduct the prosecution before S. J.

Con. 279. July 9, '17.

M. is perfectly justified in appointing Govt. Vukeel to prosecute in cases of Murder, although there may be relations of deceased.

Con. 778. April 6, '33.

Wherever any party may decline to prosecute in thefts and heinous offences, M. can direct a public prosecution.

Con. 318. July 7, '20.

Police shall not subject prosecutors to any degree of restraint, unless their complaints appear on enquiry to be false and malicious, in which case the circumstances should be reported to M. and complainant be required to furnish bail for his appearance before M. and in default, sent in under custody. **PROSECUTORS and DEFENDANTS.**

C. 3. S. 23. XX. 17.

Though Police may not detain defendant at thannah beyond 48 hours under C. 16. S. 19. XX. 17.; yet M. is vested with discretion to authorize his detention for a longer period when the measure may appear absolutely necessary for the ends of justice; but he should exercise the power with great caution, and only on very strong grounds.

Con. 1167. Augt. 17, '38.

If a person chulaned has been formerly apprehended, the date and circumstances should be inserted in the Report.

C. 9. S. 13. XX. 17.

Confessing prisoner to be kept separate, and if possible sent in under a separate guard.

C. 5. S. 19. XX. 17.

Darogah may advance diet money, not exceeding 1 anna a day, to very poor prisoners chulaned, reporting the same for confirmation of M.

C. 13. S. 19. XX. 17.

IV.—COMMITMENTS, see "Commitment," "Judge of Sessions," "Confession." **COMMITMENTS.**

V.—*Possession of Land and Moveables*, see "Possession." **POSSESSION.**

If the fact of illegal and forcible dispossession of moveables be proved, M. may interfere with a view to their restoration; but if the property be found to have come into the possession of the party with whom it is, without proof of violence or other illegal act in the acquisition, and such party detain it on the plea of claim or lien on the property, the matter is one of Civil, not of Criminal cognizance.

Con. 1349. July 1, '42.

VI.—*Appeals*, see "Appeals," "Judge of Session." **APPEALS.**

VII.—*Liabilities.* **LIABILITIES.**

Mofussil Courts protected by S. 24. C. 70. 24th G. III. from actions for things done within their jurisdiction, though arrorneously or irregularly done; but they are liable for things done wholly without jurisdiction; provided they had no knowledge, or means of knowledge of which they ought to have availed themselves, of that which constitutes defects of jurisdiction.

Privy Council, Morton's Reports, p. 397.

No rule or process, to be made against Mofussil Officer until proper notice has been given to him. S. 25. C. 70. 24th G. III. No M. in such case liable to arrest, until he has declined to appear. S. 26.

LIABILITIES. M. not liable to Civil Courts. Con. 1051. Octr. 10, '36.

See "Correspondence," "Suits of Govt."

Whenever an action may be commenced in the Supreme Court against any public Officer for acts done in the discharge of his public duty he shall communicate the fact through the usual official channel, reporting all circumstances which may be necessary to enable Govt. to arrive at a decision on the real merits of the case. If the officer shall appear to have acted rightly, Govt. will advance the necessary funds to enable him to defend himself, to be refunded should the issue of the action prove him to have acted improperly. If, on the other hand, upon examination of his case by Govt. his conduct shall appear to have been clearly wrong, he will be informed that Govt. will not interfere and that he must defend himself at his own charge.

G. O. April 12, '48.

MALIKANAH. MALIKANAH, of excluded proprietors, not to be less than 5, or more than 10 per cent. on the jummah.

C. 2. S. 5. VII. 22.

MANAGERS. MANAGERS, see "Administrators."

MANJEES. MANJEES, in charge of public Ferries, can be removed, independently of punishment under the Genl. Regns. for misconduct, and breach of rules.

C. 2. S. 4. VI. 19.

Manjees of Ferry boats guilty of gross neglect, may have 6 months, or fine of 200 Rs.

C. 2. S. 13. VI. 19.

Ghat Manjees not to be recognized, and speedy redress given to those injured by their malpractices.

Con. 606. Novr. 11, '31.

See Boats on Rivers under "Magistrate I. 2."

MARCH of TROOPS. MARCH OF TROOPS.—1st. *Russud.*
2nd. *Commissariat.*
3rd. *Carriage.*
4th. *Compensation for Crops.*
5th. *Pressing Trades-people and Artificers.*
6th. *Ferry Boats, and Temporary Bridges.*
7th. *Fleets of Boats.*
8th. *Miscellaneous.*

MARCH OF TROOPS.

1st. *Russud.*—The Guard which generally precedes a Regt. by a day, and is commonly called the *Russud Guard*, will invariably be commanded by a Native Commissioned Officer, selected for the duty with reference to his temper, discretion, and other obviously necessary qualifications.

The Civil Authorities will invariably depute a Native Officer of respectability to meet every Regt. the day before it enters the district under their charge. He will wait on the Comdg. Officer, receive his instructions, and generally precede the Corps by some hours, to ensure the supplies being in readiness, and to satisfy himself that they are of good quality. He ought to be a discreet, good-tempered, intelligent, and honest man.

A form of Indent is fixed, to be universally observed. (It should also include the quantity of *Straw* required. G. O. Novr. 25, '34.)

Officers commanding Corps, or Detachments, before making their requisitions on the Civil Authorities for supplies, should be particular in ascertaining as nearly as circumstances admit, the exact amount of each article which will really be indispensable, and form their Indents accordingly.

G. O. Augt. 30, '36.

For the supply of Firewood, Forage, Earthen pots, &c. Talls will be established on all the principal roads where they may be necessary. Contracts will be invited for the supply of these Talls; but where no contractors come forward, the articles will be stored, and sold by Tuhseeldars, or other Govt. Officers, under the orders of the Collr. Articles of the above description which may be specified in the indents, will be supplied *wholesale* to the Officer in charge of the Russud Guard, or to the Kutwal of the Regimental Bazar, the Native Civil Officer merely providing conveyance for the supplies to the camp. These articles will be paid for in advance by the Native Officer in Command of the Russud Guard. The Civil Officer in attendance will take care to see that these articles are charged for at the proper rates; and the party who provides them will give the Officer in command, or his Regimental Staff, a receipt in duplicate for the money. He will also be required to receive back the surplus of Fuel, Forage, and pots, which may occasionally remain unsold at the close of the day, at the rates at which he furnished them in the first instance.

The Civil Authorities will proceed immediately to make arrangements at each stage for the provision of the articles above referred to; and will make such advances as may be absolutely necessary, reporting to Commr. for his sanction.

Officers and others belonging to a Regt. who may require Fowls, Kids, Milk, or other articles not specified in the form of Indent, must procure them by sending their servants into the neighbouring villages, with ready money to purchase them. The Native Officer who attends the camp on the part of the Collr., will be able to give information where such articles are likely to be found; but he is strictly prohibited from using his authority for the purpose of procuring them.

The Civil Authorities will carefully enforce the observance of the rules now in existence for the protection and regular payment of Coolees, Chokeydars, and others, (see detailed rules of G. O. of April 28, '48. following.)

G. O. Jany. 21, '33.

See "*Carts and Carriage.*"

MARCH OF TROOPS.

MARCH OF TROOPS. RUSSUD.

M. on receiving notification of march of troops, shall send orders to Police to afford every assistance in their power to facilitate the march, and to co-operate as far as necessary, with the person deputed by Collr. to procure supplies; as well as in adjusting any disputes which may arise as to prices of articles furnished, and in preventing any alarm to the people of the country.

S. 6. XI. 06.

All Proprietors and Farmers of Land are bound, under XI. 06. and VI. 25. to facilitate the march of Troops through the country, by providing the means of transport across the rivers, and by furnishing supplies; and, on failure to do so, they are subject to fine. On the other hand, Govt. engages to reimburse them all expenses on these accounts, and also to compensate them (see "Compensation") for any damage done to standing crops by the passage of Troops.

The Collr. is charged with the duty of making these arrangements. He is responsible that the troops meet with no impediment, and that the owners are fairly paid for all articles which they may furnish to the troops.

Directions. 338.

The 2nd September, 1848.

JUDICIAL DEPARTMENT.—With reference to the Notification of April 28th, 1848, regarding the supply of provisions and protection of travellers along the Grand Trunk Road, the Hon'ble the Lieutenant-Governor is pleased to publish for general information, the annexed Circular letter addressed under orders of the Right Hon'ble the Commander-in-Chief, to all Officers Commanding Regiments.

By order of the Hon'ble the Lieutenant-Governor of the North-Western Provinces.

CIRCULAR.

No. 1528.

Adjutant General's Office, Head Quarters, Simla, 15th August, 1848.

SIR,—I am directed by the Right Honorable the Commander-in-Chief to transmit, for your information, the accompanying copy of a Notification by the Honorable the Lieutenant-Governor, North-Western Provinces, dated 28th April, 1848, and to request your particular attention to those paragraphs connected with the subject of providing for the march of Troops, &c. along the Grand Trunk Road, from the river Kurumnassa to Kurnaul.

2. It will be your duty, when the Corps under your command is required to proceed along that route, to give every support and protection to the different contractors established by Government; they will supply all regimental bazars wholesale, in the usual manner, as prescribed in the rules to the Civil and Military authorities, in General Orders, No. 15, dated 21st January, 1833, but small detachments and individuals of the Corps proceeding on duty, or leave, will be supplied at the Burdasht Khana, where such is established.

3. To enable the contractor to be duly prepared with a supply of firewood, in convenient quantities, it is desirable that you should state, as far as practicable, at the foot of your indent, the probable number of bundles of firewood, of the value of one Pice each, that may be required for the consumption of the Corps; the quantity will of course vary with the price of the wood, from 2 to 2½ seers.

4. It is also desirable that no imposition should be practised on the troops, and to prevent this as far as possible, the contractor will be furnished with a nerrick, in

Oordoo and English, of articles of fixed value; and of those of fluctuating price, you will be furnished with a copy of the nerrick in duplicate; one of which you will countersign and send the Collector by Dawk, noticing at the same time, any disposition to impose upon your men, an inferior article, or improper prices.

5. To prevent the necessity for future complaint or reference to the Officer commanding the district or division, it is desirable that the Revenue and Police Officers, and even the Villagers residing in the vicinity of camp, should have ready access, that you may quickly learn if any thing has occurred deserving your attention.

6. The posting of sentries round the camp, as soon as the advanced guard has reached the new ground, with instructions to prevent camp-followers or any others from introducing firewood, straw or other forage, pilfered, or forcibly taken, from the neighbouring villages, will have considerable effect in preventing cause of complaint. The Native Officer on duty, should be held responsible for the enforcement of this order, and have instructions to bring any individual into camp who may wish to prefer a complaint.

7. On the march of the Corps, the Quarter Master, as well as the European and Native Officers of the day, should be directed to visit the bazar daily, to see that no just cause of complaint exists on the part of the contractors or others attending with supplies.

8. Detachments and men proceeding on leave of absence should be warned, that the Tehsildars, as Deputy Magistrates, stationed along the road, have instructions to investigate the complaints of all hackery-men, or men seized as Begaries, in defiance of the orders of the Governor-General of the 24th March, 1820, (which should be again read and explained to the Corps,) as well as of men, who have been employed and discharged without adequate payment.

9. They must also be instructed that they are not entitled to the gratuitous service of Buttiaras, in the several serais, but must pay the same as other travellers, for any accommodation they require.

10. General Orders by the Governor-General in Council, dated 15th January, 1811, and General Orders of the Commander-in-Chief of the 13th February, 1811, prohibit in the strongest terms, the levy of any duty, tax, or dustooree, under any pretence whatever. His Lordship is sorry to learn that Kotwals and Chowdries of regimental bazars are not only in the habit of taking dustooree on all money paid for supplies furnished in their bazar, but that the weighmen exact a certain portion on every maund of grain supplied, which naturally enhances the price to the consumers, who are entitled to your protection, and whose interests it is your duty to gaurd. Such proceedings may in some measure account for any reluctance of individuals to deal with their regimental bazar, and impair its efficiency.

11. The Commander-in-Chief is informed that such money is occasionally paid on the march, for fear of an unfavorable report being made on the supplies furnished. In the event of any such occurrence, it will be your duty not to be guided by the report of the Chowdrie or russud guard only, but by a Committee of Native Officers, superintended by a Captain or Senior Officer, a copy of whose report should be transmitted for the information of the Collector, that he may take the proper steps to prevent a recurrence of similar impropriety. Their examination should not be confined to a sample, but to the whole quantity provided.

12. The orders which direct a Native commissioned Officer to be detached, in

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advance, to look after the russud, have been some times lost sight of: your attention is therefore required to this important point; and you will warn the Officer selected for this duty, that if any of the party under his command misconduct themselves, by taking firewood or grain, &c., he will be held responsible for their misbehaviour.

13. I am also directed to call your attention to the Adjutant General's Circular, No. 1553, of the 15th October, 1832, and also to General Orders by the Commander-in-Chief of the 30th August, 1836, regarding indents for supplies, with a view to prevent any unnecessary expense, being entailed on Government from excess of indent, or its including articles not procurable on the spot, and of the propriety of revising it, should you at any time find it beyond what may be your daily consumption.

14. You will be careful to have your bazar, &c., supplied at the larger cities or stations you may pass through, with sugar-candy, soojee, tea, &c., and other articles not in general use, or procurable at the Native villages, that may be required, as such articles cannot be supplied on indent.

15. In detaching Sepoys with Commissariat Cattle for forage, they should be instructed not to permit any trees, &c., to be destroyed in the vicinity of the houses of the inhabitants, or temples, or allow any money to be exacted for the exemption of any particular trees, &c., lest they should be implicated in any subsequent charge, which may be made as affecting the conduct of the regiment on that account.

16. As bhoosa and other dry forage will be obtainable at the Burdasht Khana, Sepoys should not be employed to compel any forced delivery of that article.

17. The Commissariate Agent proceeding with the Cattle attached to a regiment, should be prohibited indenting for a larger supply of grain than is actually required, and he should be warned against exacting any dustooree, or receiving any description of perquisite. He is to be provided with a nerrick for the quantity of grain only that he may purchase.

18. The Commander-in-Chief regrets to find that the repeated and explicit orders, more particularly those in the Circular letter of the Adjutant General, No. 1553, of the 15th October, 1832, on the subject of the march of troops, have been frequently disregarded, and he trusts that such attention will be paid to them in future, as to prevent any charge of improper conduct on the part of a regiment being brought by the Civil authorities to His Lordship's notice.

19. You will cause the several orders adverted to in this letter, as well as the notification of the honourable the Lieutenant-Governor, North-Western Provinces, to be read and explained to the regiment as far as concerns their personal conduct, that they may be fully aware what is required of them, and how they are expected to act in upholding the credit of the regiment to which they have the honor to belong, and you will record in your monthly return when such orders are read.

I have, &c.,

PAT. GRANT, *Lieut.-Colonel,*
Adjutant General of the Army.

RULES OF G. O. APRIL 28, 1848, FOR THE TRUNK ROAD.

Para. 4. In modification of G. O. March 25, '47. two encamping grounds of 400 yards square should adjoin each other, so that all the articles for the supply of Troops and Travellers may be collected on the spot, and permanently stored there.

5. The orders of Jany. 21, '33. must be carried out for ensuring the sale of all

burdasht articles on the spot. *Burdasht khanahs* should be erected on the ground, or in its immediate vicinity. These buildings consist of an enclosure where Wood, Charcoal, Earthen-ware vessels, Bhoosa, &c. &c. can be stored, with a few Bunniah's shops attached outside. The cost of each is about Rs. 200.

6. Contractors will generally be found to sell the articles in common demand, or receiving advances to the following amount on good security.

Bunniah, Rs. 200.—Firewood and Bhoosa, 150.—Milkman 40.—Fowls and Eggs, 25.—Kurbee, 35.—Grass and Straw, 20.—Halwace, 10.—Shepherd, 25.—Oilman, 25. —Coombhar for Pots, 10.—Chowdree for supplying Bearers, Coolees, and Carriage to a fixed moderate amount, 50.—Chubenee, 25.

Total, Rs. 615.—

7. The Contractors should be prohibited from having any intercourse with the Police as regards the collection and sale of their articles. They should have warehouse room, and shops rent-free, in the Burdasht khanahs, but they are to have no privileges, or monopoly. They should be bound under sufficient penalty to furnish all applicants at the current market price of the day. Detachments of Troops, or parties of Travellers, may be supplied retail; but whenever Regimental or other Bazars, are attached to a Camp, the supply should be *wholesale* to the persons appointed to receive them, the Wood should be made up in parcels each of the value of 1 pice, a specified number of which are to go to the Maund. These should be sold wholesale or retail as may be required. The absolute prohibition against the demand of any articles either gratis, or at less than the market price, is applicable to all Govt. Servants as well as to Sepoys. Police or Revenue Officers are especially bound to pay fairly for what they may require.

8. The Contractors should be furnished by the Collr. with Certificates in English and Oordoo, setting forth the obligations under which they lie, and the protection to which they are entitled. The price of all articles of fixed value must be specified in their certificate. They must be bound to supply on requisition a price current of all articles of fluctuating value. This price current must always be presented to the Commdg. Officer of a Regiment on his arrival, in Duplicate. He should countersign one, and send it to the Collr. for his information.

9. The Revenue Officer who is placed in charge of these arrangements, is bound to see that the above provisions are complied with. It is also his duty to bring instantly to the notice of the Commdg. Officer of a Regiment, complaints which may be made by the Contractors, of any injury they have received from Sepoys, or Camp Followers. These representations may be made either verbally, or in writing, and information should be sent of them to Collr.

10. A Collector, or Magistrate, on receiving a well supported complaint against an Officer of the Army, or detachment of Troops, should immediately send information of it to the General Officer Commdg. the Division towards which the party complained against is moving. He should at the same time furnish the Commr. of the Division with a copy of his representation.

11. There is every reason to believe that the Zumeendars and Bhuttiarahs and other individuals will, with proper encouragement, erect Serais, or other places of accommodation for Travellers at their own cost, either with a view to profit, or as a meritorious charitable act. It is on every account desirable that such efforts should

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be promoted to the utmost. Buildings of this description are on many accounts preferable to Govt. Serais. The Police should be strictly prohibited from interfering in such matters, so as unduly to favour any party, or to derive to themselves a profit from the undertakings. Their watch should be kept outside the buildings, and they should never enter them in their official capacity, unless to repress evident breaches of the peace, or otherwise in the regular execution of their duty. They must be strictly prohibited from levying any dues from Travellers who may alight at Serais, or from compelling them to resort to particular places. Bhuttiarahs must be protected in the fair exercise of their calling, and measures must be taken to enforce the same payments to them from Govt. Officers as are demanded from other individuals. If no private individual will erect a suitable Serai, it may be expedient to build one at the Govt. expense; but in that case the Police must not be allowed to use any undue measures for promoting resort to the Govt. Serais.

12. Watch houses should be built at the distance of 2 miles the one from the other, with two rooms and a verandah in front. Each Murhella should contain a Burcundauze and two Chokeydars, who should always be present at night; and each Chokeydar should have charge of a mile of road. A Murhella may be built for 50 Rs.

13. Chokees of larger dimensions, and with accommodation for a Jemadar, 2 Sowars, and several Burcundauzes, consisting of six rooms, and stabling for 3 horses, should be erected at convenient posts.

14. The Tuhseeldarees and Thannahs should be brought on the Grand Trunk road as much as may be consistent with other public objects.

15. It will be the duty of the Chokeydars and of the Burcundauzes, to afford protection to all Travellers with merchandize, or goods, who may stay for the night at *puraos*, or other established halting places in their vicinity; but they must be strictly prohibited from compelling travellers to stop at any particular place; nor must they be allowed to make any charge for the protection they afford. Travellers who require separate Chokeydars for the protection of their baggage, or tents, at the established encamping grounds, will be furnished with them at a settled price by the Officer of the Collr.'s establishment who is stationed at the spot. For such Chokeydars the established fee *must be always paid.*

16. The Tuhseeldar along the road will generally be invested with the powers of Depty. Magistrates. In that capacity it will be their duty to see that all provisions are punctually paid for, and that all Coolees and hired Chokeydars receive their proper wages. In the event of any complaints being preferred to them of non-payment, or ill-treatment on the part of Troops or Travellers, they will immediately bring the circumstances to the notice of the party against whom the complaint is lodged, either verbally or in writing, and if the matter is not promptly and satisfactorily settled, they will take evidence to the facts, and will either dispose of the case themselves, or send a representation of it, with their opinion, to the Collr. or the Magt. as may be necessary.

17. They will further exert themselves to prevent all exactions on the part of the Chokeydars, or Burcundauzes, or other Officers of Govt. on the road, whether directed against residents in the vicinity, traders, or shopmen located on the road, or travellers passing along it. They will bring to the notice of the Collr. or Magt. all instances of misconduct of this nature, with their recommendation as to the proper notice to be taken of the offence.

18. On the occurrence of any crimes upon the road, especially where travellers are

concerned, it will be the duty of the Depty. Magt. to enter upon the case directly, so that the parties may suffer no unnecessary detention. If the case be within their competency, they will dispose of it at once; otherwise they will send the criminal with the proceedings to the M. for his final orders, and will suffer all others who are concerned in the case, and may be no further required, to pass on.

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19. The Magt. will pay particular attention to the characters of the Police Officers who may be stationed along the road, and he will suitably encourage the deserving. In like manner the Collr. will keep a vigilant watch over the Officers of his establishment, who may be entrusted with the superintendence of supplies at the several encamping grounds. He will be careful that the supervision of the arrangements at each halting place is entrusted to one competent individual, and that this person be furnished with written authority to act, and with definite instructions both in English and Oordoo.

20. The Collr. and Magt. himself, or one of his best qualified Assistants will make it a point to visit the halting grounds, and the chokees, serais, and other public buildings along the road as often as may be practicable; and during the cold weather some responsible officer should if possible be charged with the duty of moving along the road, and seeing that the Rules are observed.

G. O. April 28, '48.

COMMISSARIAT.

2nd. Commissariat Department. The Officers of the Commissariat Deptt. are to refrain in all ordinary cases, from applying for the assistance, or interposition of the Magistrates, with the view to obtain supplies of any description for the public service.

The prices to be paid for provisions and supplies of every kind, as well as the rates to be given for the hire of Carriages, Boats, Cattle, Coolees, &c. &c. are in all respects to correspond with the prices and rates current in the vicinity of the stations to which the Commissariat Officers are respectively attached.

On all occasions where hired Carriages, Cattle, or Workmen, shall be employed on service which involves a more than usual degree of danger, labour, or privation, the Commissariat Officers are directed to grant a remuneration commensurate with the duty performed, and according to the circumstances of the case.

It shall be the duty of the Commissariat Officers to ensure good treatment to all descriptions of persons employed in their department, and by an indulgent and liberal line of conduct, to endeavour to procure voluntary tenders for whatever Boats, Carriages, Cattle, or Labourers, may be required for the public service.

The Officers of Commissariat shall consider it their duty to ascertain, as far as practicable, the number of Carriages, Boats, Cattle, &c. &c., which are kept for purposes of hire in the vicinity of their stations, and shall keep a register of them, to enable them with promptitude to answer the demands of the public service.

Whenever Boats, Carriages, or Cattle, may be supplied which are not usually kept for the purposes of hire, it will be the special duty of the Commissariat Officer to pay particular attention to the interests of the proprietors, and to grant a just compensation for the loss, or inconvenience which the employment of their property on the public service may occasion to the owners.

Emergencies will occasionally arise when it will be found necessary to apply for the interposition of the Civil Power; and on such occasions assistance will be promptly afforded by Magistrates; but it will in the first instance be the duty of the Commis-

MARCH OF TROOPS. COMMISSARIAT.

sariat Officers to use their most strenuous efforts to supply the wants of the public service by the resources of their districts, procured on voluntary engagements.

The G. G. in C. feels assured that a practical application of the principles of the foregoing rules by the Officers of the Commissariat, will be attended with the most beneficial effects in respect to the efficiency of the department; and he takes this public opportunity of notifying that he considers it incumbent on the character and interests of Government to ensure a just and liberal compensation on all occasions, to individuals who engage either their property, or their personal services, in the employment of the state.

G. O. Novr. 28, '18.

M. or Collr. who on a requisition under S. 3. XI. 06. may provide Carriage, or Bearers, to Commissariat, should furnish correct nominal rolls with specifications of the amount of advance made to each individual, and the rate of pay they are to receive in duplicate; one copy being transmitted with the carriage, or bearers, and the other by dak to the Commt. Officer.

Any M. or Collr. who delays, or neglects, to furnish these rolls, will incur a serious responsibility for the advance given to the parties. When Commt. Officer does not promptly repay the advance, a reference should be made to Milty. Board.

G. O. Novr. 3, '48.

CARRIAGE.

3rd. Carriage.—As the carrying too much baggage with the troops must necessarily occasion much difficulty to the Commissariat, diminish the activity of the Army, and embarrass its movements, the Most Noble the G. G. in C. is pleased to fix the following scale of baggage allowed to be carried by Troops on a march.

	Maunds.	*Seers.*	*Bullocks.*	*Carts.*
Rank and File carrying Knapsacks,.....	0	10	0	0
Native Commissioned Officers,.....	1	20	1	0
Subalterns and Assistant Surgeons,.....	5	0	2	1
Captains and Surgeons, ...	10	0	4	2
Lieutenant Colonels,.....	30	0	12	6
Colonels, ...	40	0	16	8

For a *full* Regiment of Cavalry, of 1 Colonel, 1 Lieut.-Colonel, 1 Major, 6 Captains, and Surgeon, 16 Subalterns, 16 Native Commissioned Officers, and 700 men, the total amount of indent allowed, is for 538½ maunds, being 214 Bullocks, or 107 Camels, or 67 two-bullock carts. This provides for a Regiment when complete; but indents are invariably to state the actual strength of the Corps, and the amount of carriage required will be made out accordingly.

A full Regiment of Infantry, on a similar scale, with 970 Rank and File, is limited to 538½ maunds, being 214 Bullocks, 107 Camels, or 67 two-bullock carts.

G. O. May 1, '19. Decr. 2, '24.

In respect to European Officers, this is in addition to the carriage for their Camp Equipage which, when on full Tentage, they must always keep complete.

The Officers of the Commissariat Department, and the Collectors, will be STRICTLY GUIDED *by these tables, as exhibiting the* UTMOST EXTENT OF CARRIAGE SANCTIONED BY GOVERNMENT.

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Individuals with families, requiring Bearers, Coolees, or additional Carriage at a period of a General Relief, are invariably to make their own arrangements.

Carriage is not to be supplied by the Commissariat, or civil officer except on regular Indent, countersigned by Officers Comdg. Corps. It is to be hired to a convenient stage in the adjoining district, beyond which it is not to be taken, unless the Collector of that District shall certify that a Relief cannot be furnished.

In order to prevent delay or impediment to the public service, it will be the duty of the Collector furnishing the Carriage, to forward immediately to the Collr. of the adjoining district, copy of the Indent, in order to the preparation of the relief of Cattle, &c. &c.

Indents are not to be made for any Detachment, under the strength of a Company; as, on account of such a Detachment, no difficulty can be experienced.

As Carriage cannot always be procured at a moment's notice, and as it is but equitable that the owners thereof should be remunerated from the date on which it may be furnished, it is hereby directed that demurrage shall be paid at the rate of half the established hire of the District, from the day on which the Carriage is procured by the Collr. for Military purposes, to that of marching, when the full hire is to commence from the day succeeding the date of arrival, half hire is to be paid for the return Cattle or Carriage, at the rate of 8 kos per day. The rate of hire is to be fixed by the Civil or Commissariat Officer, as may be; in the first instance, half-hire is to be paid by the Civil, or Commissariat Officer, and charged to Govt. in a Contingent Bill, vouched in the usual manner; in the second it is to be paid by the parties discharging the Carriage. The Comdg. Officer will be held responsible that all claims are fairly and speedily adjusted.

It will be the duty of the Officer Comdg. to see that reasonable advances are made to the owners, or drivers, of the Cattle, both before the troops move, and during the march, should a relief be unexpectedly protracted.

In the event of troops passing the Frontier of the British Territory without having been able to effect a relief of Cattle, it will be the duty of the Comdg. Officer, from time to time, to regulate the hire in as equitable a manner as possible, in communication with the Commissariat Officer, and with reference to the prices of Fodder, Gram, and other local considerations.

His Lordship in Council relies with confidence on the exertions of officers for carrying these Orders into full effect, and for impressing on the minds of those under their command, that the reasonable comfort and convenience of the troops are not less the object of Govt. in their publication, than to relieve the Country from every species of inconvenience which the necessities of the service do not positively require.

G. O. Decr. 2, '24.

European soldiers to be allowed carriage for 20 seers each. Married soldiers requiring additional carriage, will invariably make their own arrangements. Indents upon the Commissariat for carriage for extra baggage, are not to be complied with.

G. O. Feby. 24, '46.

29 Camels, or 7 Elephants, are considered sufficient for the carriage of the Camp equipage and cloaks, of a full regiment of Infantry.

G. O. Novr. 18, '24.

MARCH OF TROOPS.

MARCH OF TROOPS. CARRIAGE.

Civil Officers to assist persons in charge of Army, Clothing, and Stores, when in difficulty as to transporting them to their destination.

G. O. Octr. 6, '21.

Military Officers to pay for Carriage, Coolees, &c. &c. from the date of actual engagement. Return hire at half rates to be also paid, unless the parties can obtain employment on the way back. The full rate of hire shall not be affected by halts to rest the troops, unless previously so agreed upon.

G. O. Novr. 18, '20.

Cattle and Hackeries furnished to troops, shall in all practicable cases be unloaded and set at liberty on the day of their arrival at their destination, and shall be exempted from seizure, or molestation thereafter, in order to admit of their returning home.

G. O. Feby. 10, '41.

Frequent and distressing complaints having been made of the oppressions committed on occasions of Officers proceeding singly through the country, as well as by small Escorts; whilst no complaints have been received when the Troops were moving collectively; the C. C. gives the most positive orders to all Officers to abstain from taking upon themselves to press the inhabitants to serve as Begars, or in any other way molesting them.

Officers ought to provide themselves with permanent Carriage for all necessary baggage, and be quite independent of Coolees hired from stage to stage. Should an Officer be accidentally reduced to the necessity of having recourse to that mode of transporting any part of his baggage, application should be made to the constituted authority on the spot for the aid required, and the due payment of the full hire of the people furnished, settled to the satisfaction of the parties.

Comdg. Officers of Corps should be very particular in cautioning all small escorts against the practice of pressing Begars out of the villages; and a severe example must be made of the first non-commissioned officer who offends in this way.

G. O. May 21, '18.

All public Functionaries, Civil and Military, are requested to aid and assist in carrying the prohibition against pressing Begars, into complete effect.

All Military Officers are directed to refrain, and to restrain those under their command, from any attempt to press Coolees; and also to desist from seeking the aid of the Civil Authorities for such a purpose, and further, to reject such aid if proffered.

All Civil Officers are enjoined to pay implicit attention to this prohibition; and to refuse compliance with any requisitions, or applications, from any quarter whatever, tending to a violation of these Orders.

The offer, or actual payment, of any sum of money by way of compensation to individuals who may be pressed, or compelled to carry burthens, will not be held to justify, or to excuse, the violation of these orders; and all persons who may employ threats or menaces for the purpose of obtaining Coolees or Begars, will subject themselves to the penalty of the Law, and to the severe displeasure of Govt. as fully as if they had used actual force.

This prohibition is of equal force in the Territories of Foreign Powers.

G. O. March 24, '20.

MARCH OF TROOPS.

MARCH OF TROOPS. CARRIAGE.

Comdg. Officers are required to report to C. C. in what manner the troops have been supplied in passing through the different districts. In like manner the Collrs. are directed to report to the Board, and the Magtrs. to report to the N. A., any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded, and of sufficient importance to require communication to Govt.

S. 7. XI. 06.

Collr. can punish any Landholder for negligence in preparing Boats, Bridges, &c. &c. for march of Troops, with fine of 1000 Rs., leviable as an arrear of revenue.

S. 2. VI. 25.

Every description of Carriage, whether kept for private use, or for hire, is liable to be seized for the March of Troops, with the exception of Begars, the compulsory exaction of whose services is expressly prohibited by III. 20. Carriage kept for hire should invariably be taken in the first instance, whilst that retained for private use should only be pressed in cases of emergency. Carriage cannot be pressed for the transport of military supplies, if they are not proceeding with a body of Troops, and required for their use on the line of march; nor can men be impressed for the department of public works.

C. 214. Novr. 25, '36.

COMPENSATION.

4th.—*Compensation for Injury done to Crops.*

Whenever, from an unavoidable encroachment of a Camp on cultivated lands, the crops within its limits, or in its immediate vicinity, shall be injured or destroyed, a compensation equal to the loss sustained should be paid on the spot, to the actual sufferer, or sufferers, by the Quarter Master, in concert with the Native Civil Officer deputed by the Collr. of the District to attend the Camp.

A statement of all such payments, prepared according to the annexed form, accompanied by the requisite Receipts and Vouchers, and by a duly attested contingent bill, is to be transmitted monthly to the Quarter Master General, by whom the bill on being found correct, will be countersigned and returned to the drawer, to be forwarded to Pay-Master for final adjustment.

Quarter Masters will be particularly careful in taking up ground for troops, to select those spots where the least possible damage will be sustained; and it is expected that in the movements of single regiments, sites for encampment will generally be found where injury to crops or cultivated fields may be altogether avoided.

G. O. Augt. 5, '31. repeated G. O. Decr. 4, '32. S. B. IV. Appendix 29.

See "Compensation."

When a Landholder considers himself entitled to compensation for injury sustained from Troops, he shall immediately furnish statement to Comdg. Officer, who will certify generally thereon, whether the damage has been committed, and his opinion respecting the justice and extent of the claim. The certificate to be presented to Collr. within 10 days, who will ascertain whether the claim be well founded, and shall

MARCH OF TROOPS. COMPENSATION.

report to Board. No claim to be received without Comdg. Officer's certificate, except on good ground shewn, when Collr. shall send petition and statement of damage to the Comdg. Officer, and await his reply previously to determining whether or not the claim be entitled to investigation.

S. 5. XI. 06.

PRESSING.

5th.—*Pressing Trades-people and Artificers.*

The subject having been represented to Govt., the Milty. Board indignantly denied and disclaimed "any participation in a practice so altogether illegal and unjust," adding that "the impressment of men whether for bazars or other purposes, is strictly prohibited."

Magistrates are accordingly requested to observe that all such requisitions are discountenanced by the Milty. Board; that compliance therewith is denounced as "illegal and unjust;" and that the responsibility of withholding such compliance from applications for the illegal exercise of their authority, devolves solely and entirely upon them. The practice of pressing trades-people and artizans to follow Milty. Camps, with or without remuneration, is hereby strictly interdicted; and the Magtrs. will be careful in future to exert their official influence in aid of the Commissariat, only in such mode and measure as may be consistent with the Law.

C. N. A. 176. Augt. 94, '44.

FERRIES AND BRIDGES.

6th.—*Ferry Boats, and Temporary Bridges.*

The following parties have been exempted from payment of Toll at the public Ferries:—

Military Officers with their servants and baggage when travelling on their private affairs, and Native Soldiers going on, or returning from leave of absence.

The servants and baggage of Military Officer, when the officer himself is not with them; supplies in transit to such officer; and his cattle when sent out for forage, or fodder.

Carriage for treasure or public property of every description.

Cattle provided for victualling departt. of Commissariat.

With a view to guard against abuse, it is directed that the servants of officers, when not in attendance on their masters, shall invariably be furnished with Certificates, stating their names, and the number and description of Cattle, Carriages, &c. &c. under their charge. In the event of servants not being furnished with such certificates, they will be subject to the payment of the established Toll.

G. O. Octr. 28, '17.

All Ferry charges incurred in crossing troops and stores, to be in the first instance inspected in the departt. of the Quarter Master General, who, in forwarding them to the Audit Office, will remark upon all extravagant, unauthorized, or unusual charges. Magtrs. are accordingly directed to forward all such charges incurred in their districts, to the Q. M. G. and not as heretofore, to the Milty. Auditor General.

G. O. Octr. 8, '32.

When troops are provided with boats, temporary bridges, or other accommodation by Tuhseeldar or Zumeendar, the Comdg. Officer will grant a certificate specifying the

number of boats and persons employed, the burthen of each boat, and how long employed on the public service. The dimensions of bridges, and the materials of which they may be composed, should be stated. The certificate should be transmitted to Collr., with detailed account of the expense incurred, who shall without delay communicate the particulars of the account to the Account Officer Comdg. the troops, who shall certify generally thereon whether the services charged for were performed, or shall state his objections to any of the charges. When the account is returned to Collr., he shall certify whether the sums and rates charged are reasonable, and conformable to the zillah rates, and shall transmit the account, with the vouchers and certificates, through the prescribed channel to Govt. In the meantime Collr. can pay the charge, or a reasonable proportion of it, noting the amount so disbursed at the foot of his treasury account.

MARCH OF TROOPS. FERRIES AND BRIDGES.

S. 4. XI. 06.

The Bill must be accompanied by an affirmation upon honor to the charge, as actually incurred, signed by the Officer into whose hand the expenditure has fallen. "I do hereby declare upon my honor that the sums contained in this bill have been actually expended by me for the purpose set forth."

Should Comdg. Officer, although requested, neglect to furnish the necessary Certificates, a bill should be prepared containing the particulars of the expenses incurred, and forwarded to M. A. G., with information of Comdg. Officer's omission.

Manual. 43.

7th.—*Fleets of Boats.*

FLEETS OF BOATS.

The rules for troops marching, are applicable to those proceeding by water. Comdg. Officers will pay the strictest attention for securing the inhabitants from molestation or oppression, and prohibiting Sipahees, and Camp Followers being sent into villages for the purpose of procuring provisions, and of pressing Coolees and Dandees.

Applications to be always made to the Civil Officers, and previous notice to be given when possible.

Magtrs. will report the names of Officers by whose Soldiers or Followers any act of violence to the persons, or of injury to the property of the inhabitants may have been committed, in order that due investigation may be made.

All Officers are reminded of the serious responsibility that will attach to them for any abuse of the authority with which they may be entrusted, or of any exertion of illegal power; they will report to the Magtrs. any instances of neglect, or inattention, on the part of the Police Darogahs, or headmen of Villages, but by no means interfere in the exercise of their duty, or use any authority whatever over them; and in the event of any detriment or delay arising to the public service, or of having any well founded cause of complaint after they shall have given the notice prescribed by these orders, they are to represent the same, for the information of Govt. through the usual and regular channel.

MARCH OF TROOPS. MISCELLANEOUS.

8th.—*Miscellaneous.*

Officers desirous of securing a free transit through a Foreign territory, for property belonging bonâ fide to themselves, should procure a Pass from the Comdg. Officer of the nearest Milty. Station.

G. O. April 10, '47.

No persons are to be dressed like Sipahees.

Even Sipahees when travelling, are forbidden to wear their uniform coats.

M. authorized to strip any person dressing like a Sipahee; and to send to his corps with a written complaint, a Sipahee wearing his uniform, contrary to these orders.

Officers travelling with escorts are forbidden to send Sipahees or Lascars foraging. Every local officer of police will upon proper application, grant such assistance as he may be able to afford; so that all violent measures are equally illegal and unnecessary.

S. 9. XI. 06.

The power of pressing coolees for the service of Troops, or travellers, given by XI. 06. is abolished; and Magtrs. are required to adopt all legal means in their power to put an entire stop to the practice of *Begaree*, by inquiring fully into all complaints which may be brought before them, and by punishing persons convicted of the offence.

S. 2. 3. III. 20.

This is applicable only to Coolees, and not to carriage required for march of Troops, with reference to which the rules of XI. 06. stand fast.

C. 234. May 19, '20.

MARRIAGE.

MARRIAGE, see "Abduction," "Adultery," "Magistrate I. 1."

MASTER.

MASTER, discharging a servant without good and sufficient cause, before expiration of fixed term; or completion of specified service; or, if engaged from month to month, without giving 15 days' warning, or 15 days' pay; M. to enforce payment by sale of personal property of half a month's wages, in addition to any arrear due to him—or of a sum adequate to the loss sustained by servant.

C. 2. 3. S. 6. VII. 19.

This not to apply should misconduct be proved on the part of the servant, sufficient to warrant his discharge.

C. 4. S. 6. VII. 19.

C. 3. S. 6. VII. 19. is not applicable against European British Master, and such an award by M. even though a Justice of the Peace, is illegal.

Con. 340. May 25, '21.

The Regn. may however be acted on in favour of E. B. master against native servant.

Con. 345. July 20, '21.

The N. A. are however of opinion, that M. may take up suits of servants against E. B. masters, to the amount of 50. Rs., as *Debt* under 53. Geo. III. MASTER.

Letter to Judge of Goruckpoor, Augt. 10, '46.

Complaints for wages must be brought forward at once; and the Plaintiffs sworn to the truth of their complaints.

Con. 582. Jany. 7, '31.

If party against whom an award of wages to a servant has been passed, does not immediately pay the same, M. should proceed to levy the amount by distress and sale of defendant's personal property.

Con. 1053. Octr. 14, '36.

See "Servants."

MILITARY, see "Cantonment," "Magistrate III. 6," "March of Troops." MILITARY.

MINORS, see "Wards, Court of," "Administrators." MINORS.

MINT, see "Treasury." MINT.

MISDEMEANORS, misappropriation of public money by native officers. MISDEMEANORS.

S. 3. II. 13.

Neglect to support wives and children.
Neglect to perform stipulated work.

S. 3. 5. VII. 19.

Landholders to assist in apprehension of persons charged with.

S. 16. XXXV. 03.

Process to be issued on charges of S. 6. IX. 07. See "Charges."

MONTHS.

	English.	*Mahomedan.*	*Hindoo.*
MONTHS	1st January.	1st Mohurrum.	4 Poos.
	2 February.	2 Sufar.	5 Magh.
	3 March.	3 Rubee ul uwul.	6 Phalgoon.
	4 April.	4 Rubbee oos sânee.	7 Cheyte.
	5 May.	5 Jumâd ul uwul.	8 Bysakh.
	6 June.	6 Jumâd oos sânee.	9 Jeth.
	7 July.	7 Rujub.	10 Asar.
	8 August.	8 Sâbân.	11 Sâwun.
	9 September.	9 Ramzân.	12 Bhadoon.
	10 October.	10 Showâl.	1st. Kooâr.
	11 November.	11 Zeekât.	2 Kartik.
	12 December.	12 Zilhij.	3 Ughan.

MONTHS.—MOOCHULKAS.

MONTHS. From the "*Poorewa Buddee*," or first day after the Full Moon, to "*Umawus*," is called the "*undher puch*," or dark half of the month. From the "*Poorewa Soodee*" to the "*Poorunmashee*," or Full Moon, is called the "*oondhiar puch*," or brightening half of the month.

MOOCHULKAS. MOOCHULKAS.—Whenever a person is convicted of affray, assault, or other violent breach of the peace, or of assembling armed men, and the Court shall be of opinion that it is just and necessary to require a Moochulka for keeping the peace, with or without security for the same purpose, from the person so convicted; it can require Moochulka to be executed, in a sum proportionate to defendant's condition in life, to keep the peace for one year from time of discharge, if M., or for 3 years, if S. J. or N. A. See "Security."

Con. 831. Septr. 20, '33. C. 1. S. 2. IV. 25.

S. 4. IV. 25. has been repealed by V. 48. M. is competent to take Moochulkas, or penal Recognizances in the form annexed to this Act, as well from British Subjects (Quere, European?) as from other persons in all cases wherein it may appear necessary for the peace of the district, although the party may not have been convicted of any specific offence. S. 2. In aggravated cases security can be required, in addition to the recognizance of the party. (S. 3.) If a year is sufficient, M. can give his own order for recognizance, or additional security, committing the party to Civil Jail till he obeys order. S. 4. If period should exceed one year, M. should record his opinion to that effect, with an order specifying the amount of recognizance and security, and number of sureties which should in his judgment be required, and the period for which the recognizance and security should be required, not exceeding 3 years. If the party shall not obey, the proceeding to be laid before S. J. who shall pass orders confirming, modifying, or annuling the order of M. (S. 5.) No party shall be kept in Jail for a longer period than that for which recognizance has been required. (S. 6.)

S. 5. 6. 7. of VIII. 18. are applicable to all persons confined, and all sureties, under this act. (S. 7.)

Penalty of Recognizance to be enforced by M. in the mode prescribed for the satisfaction of decrees of Civil Court. (S. 8.)

If M. thinks that proceedings should be had upon security bond, he shall give notice to the sureties to pay the penalty, or to show cause why it should not be paid; and if no sufficient cause shall be shown, M. shall proceed to recover the penalty by attachment and sale of property, in the mode prescribed for the attachment and sale of property in satisfaction of decrees of Civil Court. If penalty cannot be so recovered, Sureties liable to confinement by order of M. for 6 months in Civil Jail. S. 9.

Appeal as usual. S. 10.

All Moochulkas and Security Bonds which by force of any Act, or Regulation, may be taken by Criminal Courts, for keeping the peace, or for good behaviour, may be enforced in the manner prescribed by Secs. VIII. and IX. of this Act. S. 11.

Act V. 48.

MOOCHULKAS.—MOOKTARS.

MOOCHULKAS.

Form of Moochulka.

Whereas I ———, inhabitant of ———, have been called upon to enter a Moochulka to keep the peace for the term of ———; I hereby bind myself not to commit any act that can occasion a breach of the peace during the said term, and in case of my making default therein, I bind myself to forfeit to Govt. the sum of Rs. ———.

Dated ———. Signed ———.

Form of Security.

Whereas ———, inhabitant of ———, has been called upon to give security to keep the peace for the term of ———; I hereby declare myself surety for the said ———, that he shall not commit any act that can occasion a breach of the peace during the said term. And in case of his making default therein, I hereby bind myself to pay to Govt. the sum of Rs. ———.

Dated ———. Signed ———.

Person cannot be fined for not writing moochulka at Thanna.

Con. 620. Jany. 21, '31.

Recognizances from Plaintiffs and Witnesses to be on plain paper.

Con. 679. March 7, '32.

Moochulkas of *Hazir bashee* to be taken from Defendants in petty cases as seldom as possible; if necessary, the amount of stamp to be taken from prosecutor, to be refunded by Deft. if ordered, at the termination of the case.

Con. 1287. Octr. 23, '40.

Recognizance of European British Subject to keep the peace, see "Oaths," "Security."

M. in monthly Statement to note the number of Moochulkas taken at the several Police Stations during the month ——— the total number of persons apprehended by the several Police Officers ——— the number unconditionally discharged ——— the number forwarded to station ——— and the number released on Moochulka, or Bail, under S. 20. XX. 17., in order that the superior Courts may exercise a more efficient supervision and control over the proceedings of the Police Officers in the performance of the important duty intrusted to them of taking cognizance of criminal offences.

C. 2. Novr. 15, '37.

MOOKTARS.

MOOKTARS not to be allowed to interfere in any criminal prosecution, unless reason is shown, to be recorded in M.'s proceedings, for the absence of prosecutor, who, in all ordinary cases, should attend to prosecute his case in person.

S. 3. III. 12.

Any one may employ Mooktars in Appeals and IV. 40. cases, the fees to be adjusted between themselves. Such fees not recoverable through M.

C. 301. Novr. 26, '24. Con. 770. April 12, '33.

At the Sessions, prosecutor may prosecute in person, or by vukeel, except where Mahomedan Law requires prosecutor to appear in person at the trial. The S. J.

MOOKTARS. cause the attendance of prosecutor, if he deems his vivâ voce evidence necessary, unless it be a woman of rank.

S. 16. VII. 03.

In bailable offences, M. may allow Defts. the option of appearing in person, or by Mooktar.

C. 2. S. 6. IX. 07.

S. J. or Commr. may order M. to admit a party to appear and answer by Mooktar.

Con. 730. Novr. 2, '32. Con. 489. Decr. 12, '28.

M. may refuse to acknowledge in his Court a Mooktar proved guilty of gross misconduct. One conviction sufficient to warrant his general rejection.

Con. 607. Novr. 18, '31. 809. Augt. 2, '33.

At Sessions, when strong and sufficient reason is stated for allowing Deft. held to bail for trial to attend and plead by vukeel, S. J. may comply ; but has full discretion to require the personal attendance of Deft. afterwards, if it appear requisite under Mahomedan Law, or for the ends of justice.

C. 4. S. 3. VI. 18.

Such vukeels need not be one of the pleaders of the Civil Court.

Con. 295. Augt. 27, '18.

Parties committed to Sessions may avail themselves of the advice of vukeels ; but such cannot be permitted to plead, or to interfere in the proceedings.

Con. 1012. June 10, '36.

Civil Court pleaders may not practise in the Fonjdaree Courts without previous sanction of Judge, with the exception of Govt. Vukeel on the part of Govt.

S. 17. XXVII. 14.

VII. 19. has no reference to the wages of a Mooktar ; it applies to workmen and domestic servants only.

Con. 770. March 15, '33.

S. 4. 6. IX. 07. and S. 2. II. 06. recognize the admission of General Mooktars ; but in admitting, or rejecting, this description of Agent, much must be left to discretion of M. according to the particular circumstances of each case.

Con. 512. July 17, '29.

A general mooktarnameh may be returned to party filing, after attestation.

Con. 917. Novr. 28, '34.

Permanent Mooktars at thanna not allowed, though they may be employed for a specific purpose.

C. 4. S. 11. XX. 17.

MOONSIFFS.—MORTGAGES.—MOTHERS.—MURDER.

MOOKTARS.

Police officers may not employ agents at Hd. Quarters, except when authorized in particular cases.

C. 5. S. 11. XX. 17.

Money cannot be paid to Vukeel, save under specific authority in the vukálutnameh.

Con. 1360. Augt. 5, '42.

PLEADERS, Rules regarding. (S. 4.) Open to all nations and religions. (S. 5.) Barristers entitled to plead in Sudder Courts. (S. 7.) Parties to settle remuneration by private agreement. When costs awarded in a regular suit, then according to S. 25. XXVII. 14. In other cases, ¼th of regular suit. (S. 8.) Private agreements to be only enforced by regular suit. (S. 9.) Persons taking legal opinions to settle by private agreement. (S. 10.) P. S. A. and S. A. can fine pleader. Appeal lies to Judge. (S. 11.) Rules applicable to pleaders in Moonsiff's Court. (S. 12.) Moonsiff can fine. Appeal to Judge. (Act I. 46.) When pleaders on both sides understand English, Judge can have oral pleadings in that language.

C. 967. July 4, '46.

MOONSIFFS.

MOONSIFFS, see "Magistrate III. 10."

MORTGAGES.

MORTGAGES, see "Kharij Dakhil."

MOTHERS.

MOTHERS, see "Children."

MURDER.

MURDER.—Throwing child into sea, or river, so as to cause death; Murder. VI. 02.
Infanticide —— Murder. S. 11. III. 04.

M. is competent to direct Govt. Vukeel to prosecute in cases of murder, although there may be near relations of deceased.

Con. 778. April 6, '33.

In cases of murder, the weapon should, if possible, be procured and sent to M.

C. 10. S. 14. XX. 17. C. 54. July 16, '30.

Landholder, or officer of Govt. withholding information of Murder. Rs. 200. or 6 months.

S. 13. IX. 08. Con. 485. July 4, '28.

Person wounding, or slaying, murderer or robber immediately after the commission of the crime; or in endeavouring to apprehend him; or in resisting perpetration of offence—To be guiltless.

S. 11. IX. 08.

Do. Do. Police Officer.

C. 14. S. 26. XX. 17.

For Notes regarding, see Skipwith.

NATIVES. NATIVES.—Natives lending to any Govt. Officer, to forfeit sum equal to the Debt.
S. 4. VII. 23.

Native wearing dress like Sepoy's to be seized and stripped.
C. 6. S. 9. XI. 06.

The orthography of Native names to be closely adhered to.
C. 104. May 18, '32.

Native Gentlemen to be treated courteously as such.
C. 95. Novr. 19, '41. L. P.

NATIVE OFFICERS. NATIVE OFFICERS, see "Officers," "Processes," "Magistrate III. 10."

NAZIR. NAZIR, of Criminal Court, responsible for validity of Security, and liable to damages for loss occurring from his neglect.
S. 13. XIII. 08. Con. 1014. July 8, '36.

Employing any unregistered Chaprassy in the service of any process, or in the execution of any order, to be dismissed.
S. 14. XXVI. 14.

Nazir selling unclaimed property, to have one anna in the rupee.
C. 116. Augt. 12, '42.

See "Processes," "Peons," "Summons," "Warrant."

NIZAMUT ADAWLUT. NIZAMUT ADAWLUT, see "Commitment V. 4."
If single Judge differs from S. J. the case to be referred to Second Judge.
S. 17. XVII. 17.

S. J. in referring a Criminal Trial, to state any circumstances of extenuation. A single Judge of N. A. agreeing, can grant mitigation.
S. 18. XVII. 17.

Two Judges of N. A. can acquit in spite of conviction by Law Officer.
S. 2. IV. 22.

Sentence of death to be passed by two concurring Judges.
S. 8. XII. 25.

A single Judge can reverse, or alter sentence, in favour of criminal, but not to enhance punishment.
C. 2. S. 4. IX. 31.

If he differs from S. J., a second Sudder J. to be called on for his opinion. S. 17. XVII. 17. NIZAMUT ADAWLUT.

Rules for Remission, see S. 18. XVII. 17.

N. A. can permit Registrar to prepare appealed cases for trial, and execute orders. S. 1. XVII. 41.

N. A. can always call for misls of Criminal Trials, and pass such orders as may seem fit. S. 3. XXXI. 41. But cannot enhance punishment.

S. 4. XXXI. 41.

S. 2. N. A. upon review of Statements, can annul *illegal* sentence, and certify to subordinate Court the proper sentence, which it shall pass accordingly.

S. 3. If N. A. consider the sentence not warranted by the *evidence*, or too severe, they may require S. J. to certify all the evidence taken in the case affecting such prisoners, with explanatory observations; on which N. A. may annul such sentence if they think it not warranted by the evidence, or mitigate it if too severe; certifying to subordinate Court, which shall give orders, or amend the record, accordingly. (The review of judgment as to the *point of Law* is, of course, quite right; but it may be doubted how far the N. A. should be permitted to interfere as to the *point of Fact*, as the Officers and Jury before whom the evidence is taken, must be the best judges as to the value to be attached to it.)

S. 4. Instead of proceeding under this Act, N. A. whenever it thinks fit, may call for the whole record of any criminal trial, and pass such orders as it thinks fit, except enhancing punishment, or punishing person acquitted.

Act XIX. 48.

Rules of Punishment, see Secs. 3. 4. XIV. 10. Secs. 2—7. IV. 22. Sec. 4. IX. 31.

In trials referred to N. A. which may include one or more prisoners liable to a sentence of Death, final sentence can only be passed by at least two concurring Judges of the Court.

S. 8. XII. 25. S. 4. IX. 31.

Rules for revision of judgment of Sudder Judge.—Con. 819. Augt. 23, '33.

The N. A. *is* competent to pass orders on incidental matters arising out of a Criminal trial held by M. appealed to S. J. and finally to N. A., notwithstanding the provisions of S. 6. XXIV. 37. declaratory of the *finality* of the S. J.'s orders in any Judicial proceedings other than a Criminal trial!! Con. 1275. June 26, '40. (Is this superseded by S. 2. XXXI. 41?).

NUZOOL LANDS, Rules regarding. Lands to be carefully marked off, measured, and mapped on a large scale. Copy of the deed in English. Cultivators have only a right of occupancy, heritable but *not* transferable. 33½ years purchase gives perpetual rent-free title. The land to be put up to public auction. NUZOOL LANDS.

Directions. 334. S. B. May 20, '45. G. O. April 25, '45.

NUZOOL LANDS.

NUZOOL LANDS. By S. B. XIX. 10. Collr. is ex-officio one of the Local Agents, on whom is devolved the care of public endowments for religious, or other purposes, and also of Nuzool Property. It is not the wish of Govt. (Court of Directors, No. 17. Augt. 26, '41.) that their servants should be concerned in the care of religious endowments more than may be absolutely necessary. Where interference is necessary, it should be restricted to the care of the *temporal* concerns of the endowment, and all control over the *religious* affairs should be avoided. Whenever the necessity for such a measure is apparent, Govt. is prepared to appoint as Local Agents some respectable and trustworthy professors of the religion whose endowments are to be taken care of, who, as a Sub-Committee, will manage the affairs of the Institutions.

Directions. 332.

As the Collr. is the person who is best informed on the state of property in the district, the responsibility rests upon him of providing that the Local Agency of which he is a member, do not put forward false, or frivolous, claims to property, as *escheats.* The earliest opportunity should be seized for deciding on the validity of all claims on the part of Govt. If there is no owner, the right of Govt. is clear. If individuals *not* in possession advance frivolous, or long-dormant claims, they should be investigated, and a decision passed upon them. If the claim be rejected, the claimant can seek his remedy in the Civil Court. If a person be in apparent proprietary possession, the claim of Govt. should not be advanced except on the strongest ground, and it can only be made good by a suit in the Civil Court.

Directions. 333.

In sales of Nuzool Lands, Collrs. and Local Comttees. to state that the sale will not be offensive to the feelings and prejudices of any class of the people.

C. B. July 7, '46.

* The term "authorized appropriations" in Accountant's C. 97. Feby. 18, '41. relative to local Agency Funds, embraces "all charges of Collection, Salaries or Allowances of establishments attached to endowments, charges not exceeding 500 Rs. for repairs of Bridges, Serais, Wells, planting of trees, and other works. When charge exceeds 500 Rs., Commr. must apply to Govt. for special sanction, as in the Ferry and 1 per cent. Funds. (Below 500 Rs. Commr. can sanction expenditure of *Income.*)

Accountt. C. 115. Feby. 14, '42.

* Commr. is *in*competent to authorise disbursements from (the *Capital* of) "Nuzool Funds." They must have the previous sanction of Govt. and be regularly audited by C. A. and entered in Treasury Account under "Local Agency Fund."

Accountt. C. 169. March 23, '44.

* This distinction between *Income* and *Capital* made by Govt., G. O. May 30, '49. to reconcile the two circulars, and the Rules in pages 42 and 62 of Accountt.'s Manual. This new distinction as to the power of spending having been made, the receipts of Income and Capital ought to be credited separately in the accounts, and not mixed up together as at present.

See S. B. IV. Sec. 15.

NUISANCES.—OATHS.

The authority of Govt. is necessary, under XIX. 10. before the sale of Nuzool Land can take place. *Directions.* 334. The purchase money is often permitted by Govt. to be spent by the Local Agents on local improvements. **NUZOOL LANDS.**

Directions. 335.

NUISANCES, see "Magistrate I. 2. powers as to Things." **NUISANCES.**

OATHS, *of a Christian witness.* "The Information and Deposition of ———, taken upon oath before me ———, one of Her Majesty's Justices of the Peace, in and for the district of ———, in Bengal, the ——— day of ——— 185. **OATHS.**

Taken by me, Signed ———, (Deponent.)

———

Justice of the Peace.

Form of Oath. "The evidence you shall give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God."

Oath of Hindoos and Mahomedans. "I solemly affirm, in the presence of Almighty God, that what I shall state, shall be the truth, the whole truth, and nothing but the truth." V. 40.

Person lying on such affirmation, guilty of Perjury.

S. 2. V. 40.

Person causing to lie, guilty of Subornation of Perjury.

S. 3. V. 40.

This Act does not extend to any declaration made under the authority of XXI. 37., or to any declaration, or affirmation, made in any of Her Majesty's Courts of Justice.

S. 4. V. 40.

It is not required that Deponent should sign his name; the declaration should be repeated by him before giving his deposition, and at the heading of his written deposition it should be stated, that it was taken according to V. 40.

C. 44. April 3, '40.

Oath of magistrate.

"I ———, appointed M. of the Zillah of ———, solemnly swear, that I will, to the best of my ability, preserve the peace of the zillah over which my authority extends; that I will act with impartiality and integrity; and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever, in the execution of, or on account of, any matter relating to the duties of my office; excepting such as the orders of the G. G. in C. do, or may, expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the Regulations that may have been, or may be, passed by the G. G. in C. So help me God."

Oath of Constable.

"You shall well and truly serve our Sovereign Lady the Queen, in the office of a Constable under Her Majesty's Justices of the Peace, and for the district of ———, in

OATHS. the N. W. P. of Bengal, according to the best of your skill, ability, and knowledge. So help you God."

Sworn and signed in the presence of ——, and ——, this —— day of ——.

L. G. of N. W. P. Feby. 2, '42.

Oath of Justice of the Peace can be taken in any Civil or Criminal Court, although the presiding officer of such Court be not himself a Justice of the Peace. Such officer to keep the subscribed oath among the records of his Court.

XVI. 44.

For Oaths of Assistant, and Depty Magistrate, and Collector, see "Assistant."

Comdg. Officer of a Military Station is competent to administer an Oath, within the limits of his Station, which oath shall be as valid as if it had been administered by M. or J. P.

IX. 36.

Deposition for Swearing the Peace.

The information and complaint of A. B. ————, District of ———, taken upon oath before me, ————————, one of Her Majesty's Justices of the Peace for the district of ———, the —— day of ———, 185 ; who says that one C. D. who saw the deponent, threatened to take his life, and that from the above threats used by the said C. D. towards this complainant, he is afraid that the said C. D. will do him some bodily injury, and therefore prays that the said C. D. may be required to find sufficient sureties to keep the peace and be of good behaviour towards him the said complainant ; and the said A. B. also says that he does not make this complaint against, or require sureties from the said C. D. from any malice or ill-will, but merely for the preservation of his person from injury.

Sworn the day and year (A. B.'s signature.)
above mentioned before me, ————————,
Justice of the Peace.

Form of Personal Recognizance to keep the Peace.

District of ————. Be it remembered, that on ——, the —— day of ——, in the ——year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth : A. B. came before me (name of Justice in full) one of the Justices of our said Lady the Queen, assigned to keep the peace within the Presidency of Bengal, and acknowledged himself to be personally indebted to our said Lady the Queen in the sum of ———— rupees of good and lawful money, to be made and levied on his goods and chattels, lands and tenements, personally to the use of our said Lady the Queen, her heirs and successors, if the said A. B. shall fail in performing the condition under written.

The condition of the Recognizance is such, that if the above bounden A. B. shall keep the peace, and be of good behaviour toward all Her Majesty's liege subjects, but more especially towards C. D. for the space of one year, then this obligation to be void and of no effect ; otherwise to be, and remain, in full force and virtue.

Taken and acknowledged the day and year ————————
first above, and written before me, A. B.'s signature.
————————,
Justice of the Peace.

N. B. If V. 48. applies to *European* British Subjects, it will be seen how much simpler a form of recognizance has been prescribed by it. See "Moochulkas."

OFFICE.—OFFICERS.

OFFICE.

Office. An officer to be made responsible for the *Glass* in each room in cutcherry, unless he informs at the time of fracture, and proves it to have been unavoidable; or produces the person who caused it.

C. 35. May 31, '39.

When charge of Office made over, List to be furnished of all unanswered Letters, Reports, &c. &c.

C. 179. Septr. 25, '35.

All Officers in civil employ, on delivering over, or receiving charge of an office, to certify that the copies of Regns. Acts, &c. &c. furnished by Govt. for the use of the office, are in good order and complete. S. 2. Officers will be held responsible that the books are delivered over to their successors in the same state in which they were received, and according to the receipt granted by them on receiving charge of the office. S. 3. A detailed Catalogue of the works in office is to be given, and a receipt taken on delivering over, and receiving charge; and the observance of this rule is to be distinctly notified in the report to Govt. of the officer receiving charge of the office.

G. O. Novr. 25, '41. G. March 13, '49.

When Records are in disorder, Officer in charge will be held personally responsible; as will also Officer receiving charge, unless he reports in time.

C. 122. Novr. 4, '42.

Officer delivering over charge of Office, to state in his letter to N. A. the authority, date, and power vested in relieving Officer. C. 157. Novr. 7, '34. He will also furnish his successor with a Memo. as to his subordinate officers, with all the observations and results of experience which may deem likely to be useful, or necessary, to his

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C. 103. Jany. 25, '42.

Rules for Docketting and Abstracting letters.

C. 151. Jany. 24, '43.

OFFICERS.

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EUROPEAN and GENERAL RULES.

I. *European Officers*, and *General Rules*.

Every Local Officer is bound to receive charge of public property when the officer to whose department it may belong, is prevented from retaining charge.

Court of Directors, May 16, '38. S. B. Novr. 20, '38.

The custom that prevails in India of Natives presenting *Nuzzers* in money and trays of fruit and other articles on the occasion of their paying official or compliment-

EUROPEAN and GENERAL RULES.

ary visits to Public Officers being highly objectionable, as it subjects natives to useless and frequently vexatious expense, and to extortion on the part of menial servants, is hereby *strictly prohibited;* and all public officers are required to make this prohibition generally known and obeyed by all natives of whatever rank, or degree, with whom they may have intercourse.

G. O. June 2, '29.

Covenanted Civilian, borrowing money, or becoming in any way indebted to any Native Officer under his authority, or that of his subordinates, or of any person in any way connected with them ;—To be dismissed.

S. 2. VI. 23.

No person shall be compelled to give evidence on oath relative to a bribe alleged to have been given by himself, as it renders him, equally with the receiver, liable to punishment.

Con. 757. Feby. 8, '33.

European Officer charged upon oath, in any Court of Judicature, with embezzlement, corrupt demand or receipt of money, or any other serious misdemeanor ;—The Deposition to be forwarded to G. G. in C. through the superior Court.

XXVI. 39.

Person criminally punished for Corruption, or Extortion, is not liable to the fine of XII. 03. though he is liable to Civil action.

Con. 231. Jany. 12, '16. 54. Novr. 27, '09. 58. March 13, '10.

Covenanted Officer employing Officers of his Establishment in his private business, liable to be dismissed.

S. 2. VIII. 25.

Not to buy, or sell, with foreign natives of rank.

G. O. Octr. 31, '21.

Periodical Report of Officers to be made by their superiors.

G. O. Decr. 20, '36. C. 222. Feby. 10, '37. 227. April 7, '37.

Public Officers vouching Security of native Officers under them, responsible for any deficiency. Annual certificate to be furnished, of Security Bonds having been revised.

Con. 171. July 3, '35. 216. Jany. 20, '37.

Separate Civil and Criminal actions against Officers. III. 27. In case of Extortion, copy of Conviction by Judge sufficient to enforce refund, with interest, in Civil Court.

S. 5. III. 27.

Instead of imposing heavy fines on Native Officers, it is better to transfer the office to a better man.

C. 60. Augt. 7, '40.

OFFICERS.

No application of an Officer in another office for employment to be received, without his having previously received the full acquiescence of the head of it.

C. 66. Augt. 16, '40.

Officer, whether Judge or Magistrate, quitting district, to record opinion of subordinates, with observations, and result of experience.

C. 103. May 6, '42.

All Omlah to receive $\frac{5}{16}$ extra pay as travelling allowance.

C. 50. Augt. 20, '39.

Ministerial officers required to accompany their superiors by dak, to receive 4 annas a mile; and during halts, at the rate of orders of Augt. 20, '39, namely, $\frac{3}{16}$ of their salaries.

C. 212. Augt. 15, '45.

See "Allowances," "Deputation."

Native officers may be compelled to deliver records of office under the General Regulations.

Con. 176. Augt. 3, '14. C. 4. S. 7. XVIII. 17.

Revenue Authorities cannot demand to see record; but may, with permission of the Court, depute an officer to examine them.

Con. 693. May 18, '32.

Extortion, or Corruption of Ministerial Officers—see "Corruption."

Pecuniary arrangements between officers relative to resignation of appointments prohibited; on proof of any appointment, Civil or Military, having been resigned under such circumstances, the nomination will be cancelled, and the parties concerned suspended.

G. O. Septr. 9, '42.

Members of Boards, when differing in opinion, to give Memos. as to their respective votes.

G. O. Octr. 25, '42.

Covenanted Officers of Govt. not to have speculations in land, but to devote their time and attention to their public duties.

G. O. Augt. 15, '43.

No officer in the service of the E. I. C. can be permitted to hold lands in any district in which he exercises civil authority.

C. 202. April 25, '46.

Native Officers, civil and judicial, whose salaries exceed 20 Rs. a month, neglecting to give in a Schedule of their landed property of every description, at the time of their

EUROPEAN and GENERAL RULES.

appointment, or afterwards whenever they may become possessed of any, liable to be dismissed.

C. 163. Feby. 27, '35. C. 166. Septr. 4, '35. C. 170. July 3, '35.

They must either give up all concern in the management of Lands, or resign the service. (G. O. April 17, '44.) This prohibitory order confirmed by the Court of Directors; but when individuals may have, previously to July 1844, become bonâ fide holders of land not within the district of their official employment, a discretion for granting special indulgence is left to the local Govt.

Court of Directors, Septr. 23, '45.

Officers to attend at Cutcherry from 10 to 4, or from 11 to 5 P. M.—as the minimum of their duty to the Govt., and to the people.

G. O. Decr. 27, '37.

Officers, Civil or Military, resigning appointments from pecuniary considerations, will be suspended the service, pending Orders of Court of Directors.

Notification, Septr. 9, '42.

Officer allowing his records to fall into disorder; or not reporting in time when taking charge, to be held personally responsible for the expense of putting them right.

C. 122. Novr. 4, '42.

The rule of S. 2. XIX. 03. prohibiting public officers from lending money to persons within their jurisdiction, extended to all uncovenanted judicial officers, who are legally empowered to exercise judicial functions.

C. 198. March 5, '45.

Officers of Govt. exempted from payment of Ferry tolls, when they are moving on the public service.

C. 208. July 25, '45.

MEDICAL ATTENDANCE.

Rules regarding *Medical Attendance* on all Officers and their establishments employed in the interior of districts on Civil duties, such as the conduct of Surveys, and the construction of Roads, Canals, &c. &c.

2. The Assistt. Surgeon in charge of the Civil station of the district, in which the parties are employed, is *bound* to render medical attendance to them whenever called upon to do so.

3. If required to visit a party at a distance from the station, he will, under G. O. Novr. 4th, 1844, draw 8 annas a mile as travelling allowance, and 5 Rs. per day during such necessary absence from the station.

4. When any persons on such establishments are received into Hospital, the Civil Surgeon will be entitled to draw 3 annas per diem for each person, in conformity with G. O. G. G. in Council of June 9th, 1821.

5. The allowances due under the above rules will be drawn for in the Contingent Bill of the establishment in behalf of which the charge is incurred.

6. All Officers of the army attached to such establishments as are herein mentioned,

whenever residing within the limits of Military Cantonments, will be attended by the Staff Surgeon of the station.

EUROPEAN and GENERAL RULES.

7. The above rules will be superseded whenever the establishments of the nature above stated are of such magnitude as to require special provision for their medical attendance.

Notification, L. G. N. W. P. Octr. 6, '48.

On the institution of any action against an Officer of Govt. for acts done in the discharge of his public duty, he should communicate the fact through the usual official channel, reporting all circumstances which may be necessary to enable Govt. to arrive at a decision on the real merits of the case. If on full examination into the case, and on a fair and reasonable interpretation of his proceedings, the officer shall appear to have acted rightly, he will be directed to take the necessary steps to defend himself, the Govt. advancing the funds necessary for that purpose, to be refunded after the issue of the action is known, in case the circumstances then brought to light should prove the officer to have acted improperly. If, on the other hand, upon examination of his case by the Govt., his conduct shall appear to have been clearly wrong, he will be informed that the Govt. will not interfere, and that he must defend himself at his own charge.

Under this rule the G. G. conceives that public officers will not be led to feel that they can fall back on Govt. for defence in every case, whether their conduct may have been right, or wrong. They will be sensible that they can look for assistance only when they may appear to have entirely deserved it; and therefore their sense of responsibility will remain as keen as heretofore.

C. N. A. June 30, '48. G. O. April 12, '48.

See "Correspondence," "Magistrate, No. VII. liabilities," "Suits of Govt."

II. Officers of Police. 1st, *Punishment*. 2nd, *Rules*.

OFFICERS of POLICE. PUNISHMENTS.

Police Officer demanding, or receiving, any diet money or other gratuity, from any one ;—To refund the amount, to be discharged from office, and to be punished by fine and imprisonment.

S. 11. XX. 17. C. 321. Decr. 29, '26. Con. 1134. Feby. 16, '38.

Darogah, or his subordinates, guilty of corruption, extortion, oppression, or any act repugnant to the Regns. ;—to be prosecuted criminally ; or in Civil Court for damages.

XII. 03. Con. 54. Novr. 1, '09. 58. March 13, '10.

M. may punish Native Officers for bribery and corruption, whenever he thinks his general powers a sufficient punishment. See "Corruption."

XII. 03. Con. 237. Feby. 16, '16.

Police, guilty of any gross neglect, or misconduct, in the discharge of their duties ; —30 bents. C. 1. S. 9. XIV. 16. Bents have been since abolished by S. 2. II. 34,—and a year instead of them is *not* to be given to Chokedars, Burcundauzes, &c.

OFFICERS of POLICE. PUNISHMENTS.

&c., who are only to receive *the period of imprisonment*, (whatever that may turn out to be) *to which they were formerly liable.*

C. 238. July 14, '37. Con. 923. Decr. 19, '34. See "Bents."

Officer guilty of any misconduct, neglect, or incapacity, to be suspended, or dismissed. (S. 7. XVII. 16. and S. 8. XI. 31.) In the case of a Naib Darogah, application for leave to appoint a successor to be made to Commr. under letter of Agra Govt. dated Octr. 27, '34.

Officer guilty of neglect of duty, to be fined a month's pay.

S. 5. VIII. 09.

Police maltreating prisoners, to be dismissed, and fined 1 month's pay; or imprisonment for 6 months, and 30 bents.

S. 9. XIV. 16.

Police guilty of gross neglect of thannah records, (C. 2. S. 8.) or apprehending, or issuing any order, or doing any official act, and wilfully omitting to insert it in his diary (C. 2. S. 8.) or employing Burcundauzes in private affairs (C. 2. S. 11.) or taking cognizance of Adultery, Abuse, &c. &c. (C. 2. S. 12.) to be fined, and may be dismissed.

XX. 17.

Officer, or other person, maltreating a prisoner, or witness, to extort a confession, or procure information, to be well punished.

C. 10. S. 19. XX. 17.

Officer detaining prisoner at thannah beyond 48 hours (S. 19.) or guilty of any abuse or perversion of his powers of arrest and bailment; to be dismissed.

C. 7. S. 25. XX. 17.

Officer wounding or killing robber, or proclaimed offender; or in attempting to apprehend in execution of a legal warrant, or in pursuit immediately after the commission of the crime, or resisting attempt to commit crime;—to be guiltless.

C. 14. S. 26. XX. 17.

Burcundauze cannot be sentenced to hard labour for mere neglect of duty.

Con. 712. Augt. 24, '32.

Or get 12 months in lieu of Bents.

C. 238. July 14, '37.

Native officers of the courts may be prosecuted criminally as well as civilly, on charges of corruption and extortion; and when M. considers the evidence sufficient, the prosecution shall be public, by Govt. vukeel.

C. 67. March 18, '10.

OFFICERS OF POLICE.

OFFICERS of POLICE. PUNISHMENTS.

Misconduct of Foujdarry Serishtadar to be reported to Commr. of Circuit for orders under I. 29.

Con. 792. May 17, '33.

Public Officer, Guard, or Watchman, convicted at the Sessions of theft, larceny, or burglary, either in their own, or other village, though without any act of open violence, or of direct connivance at the perpetration of such crime :—to receive such increase of punishment as S. J. may see fit, not exceeding the limits of S. 2. C. 7. (namely, 7 years and 2 in lieu of bents) and of S. 7. C. 3. (any thing short of death) LIII. 03.

Con. 374, Jany. 21, '25.

Native Officer conniving at unlicensed liquor shop ; to be dismissed, and fined 500 Rs. leviable by distress ; commutable to 6 months.

C. 2. S. 13. VII. 24.

Police guard, through wilful neglect, allowing prisoner to escape, to be dismissed, and punished by fine and imprisonment.

S. 19. IX. 07. Con. 206. May 25, '15.

In cases before Sessions Court as trials, S. J. is competent under S. 15. XXV. 14. and C. 8. S. 7. XVII. 16. to order the dismissal of Police Officers convicted of any offence which may appear to require their removal.

Con. 1328. April 15, '42.

S. J. can also report misconduct of Police to the Suptt. of Police, if he thinks fit ; in which case he shall intimate the reference to N. A.

S. 10. VIII. 31.

Any native Officer believed to be incapable of, or neglecting his prescribed duties, or in any way unworthy of office, is liable to be removed without proof of any specific crime.

S. 5. VIII. 09.

RULES.

2nd.—*Rules.* On dismissal of Officer receiving 10 Rs. a month and upwards, Report and Roll, in prescribed form, to be sent to N. A.

C. 115, July 8, '42. C. 125. Decr. 30, '42.

When Treasurer of Collr. takes charge of Foujdaree, clause to be inserted in his security bond, rendering securities responsible also in Foujdaree.

C. 51. June 5, '40.

Civil writs for the apprehension, or personal attendance of Police officers, to be served through M.

C. 203. April 25, '45.

Officer not to make local inquiries in burglary and theft unattended with personal violence, unless on written petition of person injured, or order of M.

S. 2. II. 32.

OFFICERS of POLICE. RULES.

The petition must be written, and contain a specific request for search and apprehension.

Con. 708. July 27, '32.

Though it is irregular in P. O. under C. 2. S. 2. II. 32. to make local inquiry into cases of theft without written application, it is not irregular in M. to order him to make such enquiry whenever advisable.

Con. 1354. Augt. 5, '42.

M. may demand security from complainants against thannah officers, when he has reason to suspect that the charge is unfounded.

Con. 731. Novr. 2, '32.

Police not authorized under C. 3. S. 2. VII. 11. to apprehend a person charged only with being a suspicious, or notoriously bad character, until he has completed the inquiry therein directed; sending the accused and written evidence, and taking recognizances, for the appearance of the witnesses.

C. 149. May 11, '15.

Darogah may take up cases of Forgery, but not of Abortion.

C. 303. Decr. 31, '24.

Do. to report his reasons, when he uses Muzkoorce peons.

C. 329. Octr. 3, '27.

Do. not to interfere with petty offences in any way not positively required.

C. 331. Octr. 3, '27.

Police Officers to prevent all encroachments on the public roads.

C. 5. S. 30. XX. 17.

Tuhseeldar can be vested with powers of Darogah, who will then be designated Naib.

XI. 31.

Police always to send the written evidence with the accused.

S. 13. XX. 17. C. 149, May 11, '15.

Police not to be made the medium of private bargains between gentlemen and Bazar dealers.

G. O. March 27, '41.

Police not to take charge of Moonsiff's Records during the vacations.

C. 224. Jany. 9, '46.

Police not to probe wounds, but merely write from inspection the apparent length, breadth, and depth.

C. 775, Augt. 10, '47.

Thannah burcundauzes sent to M.'s Court shall have certificates of date and time of departure, which are to be presented to Nazir, who will report any delay. On their

return to thannah, Nazir will note on Certificate the time of departure for information of Darogah, who will report any delay in return to thannah.

C. 3, 4. S. 7. XX. 17.

Rules for Police Reports.

1. In all cases cognizable by the Police, the depositions of the Informant, or Plaintiff or of both, are to be immediately taken at length, the Police officers being careful to enquire particularly from them what they saw themselves, what they learnt from others, who the persons were from whom they learnt it, the prosecutor's witnesses, and what evidence each witness is supposed to be capable of giving. In cases of Dacoitee, Highway Robbery, Theft, and Burglary, the list of property lost, must invariably accompany the Plaintiff's deposition, and the above papers must be forwarded to M. immediately on being received.

2. The Sooruthals required in Secs. 14 and 15, XX. 17, or in cases of Dacoitee, describing the appearance presented, and the facts brought to light in a primâ facie enquiry, to be sent to M. in place of a report, the moment they are drawn up.

3. Confession of prisoners to be taken at length. No persons employed about the Thannahs, as Chokeedars, Dosads, or Choomars, or of such other descriptions to be made subscribing witnesses to the same by the Police, under penalty of forfeiture of situation. These must always be respectable men of the place; and such, if possible, as can read and write, and they should be required to question the prisoner themselves, whether he has confessed voluntarily to the facts stated.

4. The depositions of Witnesses are not to be detailed in the paper sent to M., and the summary to be given in the simplest form. For example, in a case of highway robbery with murder,

Nuzzur Allee, Peer Buksh, and Govind Ram, deposed to having witnessed the deed;

Doorga, Iwuzdan, and Ruttun, recognize the property;

Shew lall and Gooroo Das, witnessed the search of prisoner's house;

Juggut Allee and Gungadeen saw prisoner running off with a drawn sword in his hand;

Janokia Dosad, Chokeedar, arrested the prisoner, and saw marks of blood on his clothes;

5. At the bottom of this summary, the Darogah is to enter the names of those witnesses whom he examined, but who professed ignorance, or gave evidence so unimportant as not to require their being sent in.

6. In sending in the prisoners at the close of an enquiry, the Darogah to enter his grounds for so doing, without any recapitulation of evidence, in the column of remarks of Chulan No. 2, of Appendix to XX. 17.

7. No precise rules can be laid down for the returns to perwanna; but any Police Officer unnecessarily taking up the time of M. with long reports, will be punished by fine; and such conduct, if persisted in, will cause dismissal.

8. The Darogahs are informed that all excuses for delay in preparing and copying out voluminous reports being obviated by the above Rules, any breach of the Regns. in the detention of arrested persons, or any slowness in the enquiry, will be severely dealt with. They are also to report concisely but clearly all important occurrences which may take place within their jurisdiction, considering that an important part of their duty. (See "Diaries.")

OFFICERS of POLICE. RULES.

9. In cases when the Darogah may not think the case sufficiently proved to warrant the transmission of the accused parties to **M.** he is to send in the *substance* of the evidence of each witness, the statements of the Plaintiff and Defendants, (the latter taken at length;) and a clear statement, without recapitulating any evidence, of the grounds of his opinion for releasing the accused.

C. 138. June 16, '43, L. P. adopted without acknowledgment by the Agra S. N. A., and published as an original order No. 579. July 2, '49.

In heinous offences, Police to take evidence of Prosecutor, or Informer, on oath; and that of witnesses without oath.

C. 1. S. 13. XX. 17.

Darogahs to go themselves, or depute one of their officers, to fairs, festivals, and other large congregations of people.

S. 18. XX. 17.

The Darogah is to exercise the general control of the Thannah; the Mohurrir to prepare the reports under the direction of the Darogah; and the Jemadar to superintend the arms, &c. &c. of Burcundauzes, and take charge of prisoners and property.

S. 4. XX. 17.

Police Darogah to keep up 8 Books, Diary, &c. &c.

A concurrent jurisdiction is vested in Magistrates and Officers of police of the several Zillahs, in cases when the crime has been committed in their respective jurisdictions, or if the crime has occurred in another district and the offender was actually in their jurisdiction when the charge was preferred. In all such cases, the Darogah of one district may pursue the offenders into another; but in other cases the application must be made to the **M.**, or Darogah, of the place in which the crime has been committed, or in which the offender may reside, or be found.

S. 22. XX. 17.

CIVIL COURT OFFICERS.

III.—*Civil Court Officers*, see "Corruption," "Magistrate, III. 10."

Information of removal, or resignation of Serishtadar, Peshkar, or Nazir of Civil and Sessions Judge, to be reported to N. A. within 10 days, and the nomination rolls of those nominated shall be submitted within the same period.

C. 73. Novr. 20, '40.

OFFICERS of REVENUE.

IV. *Revenue, Salt, Opium, Customs, Stamp Officers.*

Revenue Officers guilty of Bribery and Corruption,—see "Bribery," "Corruption."

Revenue Officers,—treatment of, see "Collector."

See also "Opium," "Salt," "Stamps," "Treasury, officer in charge of," "Customs."

Omlah of Collr. may not take Forms, or Mokurrurees, from any Zumeendar in their district, under S. D. A., March 13, '26. and their doing so is prohibited. S. B. Feby. 25, '48.

Collrs. are strictly prohibited from making any alteration in the Salaries of their Subordinates, which ought to be disbursed precisely in the manner sanctioned by Govt.

S. B. April 11, '48.

Tuhseeldars to be cut down to Rs. 200, the savings to be distributed among the best of those who get less. OFFICERS of REVENUE.

G. O. April 8, '48.

Great care should be taken to maintain the respectability of the Tuhseeldars. (See the preceding order!) They should be selected with discrimination, and after enquiry into the goodness of their character, as well as their official capacity. They should always be received and treated with consideration, and confidentially consulted as far as conveniently practicable, on all subjects connected with their pergunnahs. Reproof, or censure, when necessary, should be given privately rather than publicly; and so long as they are allowed to retain office, they should be treated with the confidence and respect due to their high station. The occasions are very rare in which the imposition of a *fine* upon a Tuhseeldar, is advisable, or even justifiable.

Directions. 24.

V.—*Servants and Omlah of Officer*, see "Corruption." OMLAH.

Private servant, or dependent, of any Officer of a Civil and Criminal Court, exacting or receiving on any pretence whatever, any sum of money, or other valuable consideration, from any person, on account of any suit decided, instituted, or pending in the Court; Fine 3 times amount taken, to be levied by distress; or to be imprisoned for contempt of Court.

S. 11. XIII. 93. Con. 539. Feby. 26, '30.

Person giving bribes to the Omlah of any officer for corrupt purposes, is guilty of misdemeanor, and liable to punishment.

Con. 522. Septr. 4, '29.

All Native persons, not being Govt. Officers, who shall exact customs or duties of any denomination, on any pretence whatsoever;—to be deemed guilty of extortion, and liable to fine and imprisonment from M. to the same extent as Native Officers convicted of extortion; namely, 6 months and 200 Rs., commutable to 6 months more; and the party aggrieved shall in like manner be at liberty to prosecute for damages in Civil Court.

S. 39. IX. 10.

One proved act of gross misconduct, sufficient to warrant rejection of a Mooktar.

Con. 809. Augt. 2, '33.

OPIUM.—1. Rules relative to Opium Agents and Assamees, with Rules of procedure. OPIUM.

2. Illicit Cultivation, Manufacture, and Possession of Opium.
3. Sale of Opium.
4. Responsibilities of Opium Officers.
5. Responsibilities of Police.

1st.—*Rules relative to Opium Agents and Assamees, with Rules of procedure.*

For Transactions between Agents and Assamees, see Secs. 3 to 17. XIII. 16.

OPIUM.

OPIUM. The weights and scales of the different Kothees should be sealed with the M.'s seal, and be examined *annually*.by him, or by a person appointed by him. Agent, or his officers, making use of weights and scales unsealed with the seal of M., or knowingly using uneven scales, or incorrect weights, although sealed ;—Fine of Rs. 500.

S. 13. XIII. 16.

Civil Suits between Agents and Assamees, Secs. 18 to 25. XIII. 16.

The Civil Court cannot interfere in cases, the cognizance of which is vested in the Collr.

S. 21. XIII. 16.

In all bailable cases, in which a person employed in Salt, or Opium, may be required as Defendant, the summons should be transmitted to Agent, or Head Native Officer, specifying amount of bail, and whether the personal appearance of Deft. is necessary. The Agent will direct the required security for appearance at M.'s Court to be given, or will cause Deft. to attend at Thannah ; and will certify on the back of the process, the manner in which it has been served.

S. 22. XIII. 16. S. 29. XX. 17.

In cases *not* bailable, warrants to be served as upon other persons, giving notice t Agent, or Head officer.

C. 4. S. 29. XX. 17.

For this purpose, a register of persons privileged should be annually transmitted to Judge, Magistrate and Collr., and any intermediate change duly notified.

S. 27. XIII. 16.

List of Opium Assamees to be sent to M. and Collr. (S. 11.) Copies to be sent to the subordinate Police, who will prevent parties not named, from cultivating.

S. 29. XIII. 16.

Opium Agent can distrain and collect balances due from his Assamees, or their sureties, in the same manner as Collr. can recover rent due from ryots in lands held kham.

C. 2. S. 23. VII. 24.

Sub-Deputy Opium Agents have power to seize contraband Opium under S. 17. VII. 24.

G. O. April 6, '36. Board C. S. O. July 13, '49.

The Board of C. S. O. have also applied to Govt. to invest Sub-Deputy Opium Agents with the powers of Deputy Collrs. to try Opium cases ; but this will lead, I fear, to much fraud and oppression, as the Opium omlah will then have every thing their own way.

2.—*Illicit Opium.* General Rules, Secs. 29. 30. 32. 33. 36. 37. 38. 40. 43. XIII. 16.

OPIUM.

All opium, excepting that which may have been manufactured on account of Govt. or sold by its authority, which may be found within the provinces dependent on the Presidency of Fort William, will be considered as contraband, and shall be liable to seizure and confiscation, together with the boats, carriages, cattle and packages used in the storing or transport of it.

S. 39. XIII. 16.

All persons who have purchased opium, or in whose possession contraband Opium may be found, shall be liable on conviction before Collr. or other officer in charge of Abkarree Mehal, to a fine of 8 Rs. (eight) per seer on the quantity of contraband opium, in addition to the confiscation of the opium when it can be seized, and when it cannot be seized, 16 Rs. per seer of 80 sicca weight. Where the above fine shall not amount to 500 Rs. the offender shall be liable at discretion of Collr., to a further fine not exceeding such sum as shall make the total fine imposed amount to 500 Rs. In addition to the above penalties, the offender shall be liable to 6 months' imprisonment : and to 6 months more should the fine not be duly discharged. S. 45. XIII. 16.

The whole fine of 8 Rs. a seer *must* be levied.

B. C. S. O. July 16, '49.

Persons purchasing without receiving, or possessing opium, *embezzled by Cultivators or Officers, of Opium Department*, to forfeit to Govt. three times the penalty prescribed in S. 45. XIII. 16. namely, 24 or 48 Rs. respectively, per seer ; and, where the forfeit does not amount to 1500 Rs., as much more *must* be levied as will make up 1500 Rs. If forfeit be not paid, imprisonment for 12 months ; and Collr. can add 6 months more if he pleases.

C. 5. S. 18. VII. 24.

Ryots embezzling Opium,—liable before Collr. to fine of 8 Rs. on each seer of opium confiscated. If the opium be not forthcoming, to 16 Rs. on each seer proved to have been embezzled. In default, 6 months imprisonment ; and Collr. can give 6 months additional if he pleases.

S. 30. XIII. 16.

Persons cultivating Poppy illegally ;—Penalty by Collr. of 20 Rs. per begah so cultivated. The Poppy to be destroyed, and the opium, if any made, confiscated. If the opium have been made, but not seized, the penalty to be 32 Rs. per beegah. In default, 6 months, and 6 months more if Collr. pleases.

S. 31. XIII. 16.

This Sec. extended to all who are concerned in encouraging, or advising, illegal cultivation.

C. 1. S. 18. VII. 24.

Zumeendars, Chokeedars, Putwarrees, &c. &c. neglecting to give the earliest information of, or conniving at, such illicit culture ;—liable to penalty prescribed for Police and Abkarry Darogahs by S. 36. XIII. 16, namely, Dismissal from Office ; the same fine as for cultivators under Sec. 31. commutable, if not paid, to 6 months ; and 6 months more.

C. 2. 3. 4. S. 18. VII. 24.

OPIUM.

OPIUM.

All opium not sold by Govt., is contraband, and is liable to seizure and confiscation, together with the boats, carriages, cattle and packages used for its transport. S. 39. XIII. 16. But this does not apply to a quantity under 2 seers, for the private consumption of foreign traveller of rank; or under 10 siccas per horse, found on foreign horsedealers.—Any surplus to be confiscated. C. 1. 2. S. 2. XI. 18. If such opium be sold, the traveller, or dealer, becomes liable to all penalties.

C. 3. S. 2. XI. 18.

KUFFA, or cloth saturated with refuse opium, may, in small quantity, be in the possession of opium cultivators, without their being punished for it; but all traffic in this illicit commodity should be suppressed, and all Kuffa that may be seized, destroyed.

B. C. S. O. March 29, '49.

Native officers of all descriptions to seize, or give information of, illicit opium. They may not break open chest, or other safe, without orders of M. or Collr.; and must report within 24 hours. Report to be sent to Collr.

S. 41. XIII. 16. C. 1. 2. S. 17. and C. 6. S. 18. VII. 24.

Penalty for connivance, or neglect of this duty, (before M. if the Native Officer be subordinate to him, and in other cases before Collr.) fine of 8 Rs. per seer, commutable to 6 months. If quantity not known, 1000 Rs., or 6 months.

C. 6. S. 18. VII. 24.

Resistance to seizure, by force, or threats, punishable by M. with 1000 Rs.; and party further liable for any breach of peace occurring in consequence.

C. 7. S. 18. VII. 24.

Contraband Opium when seized, to be sent by Collr. to Civil Surgeon, who will report whether it is

"Good," that is, perfectly pure.
"Marketable," having ¼ foreign matter.
"Inferior," having more than ½ foreign matter.
"Useless," being good for nothing.

S. 20. VII. 24.

On "good" Opium, informer to get a reward of 1-8 per seer, and the Native Officer of Govt. who seized it, the same. If the Officer seized without informer, he will get 3 Rs. per seer of 82 siccas.

On "Marketable," 12 annas each.

On "Inferior," 10 annas each.

In these cases, informers to receive ½, and Native Officer ¼ of all Fines, and of the proceeds of Boats, Carriage, Cattle, &c. &c. seized with the contraband Opium. Where there is no informer, the Officer to receive the whole ¾ths.

S. 21. VII. 24.

OPIUM.

No reward to be given for "useless" Opium.
Opium Agents and their Deputies not entitled to any reward.

C. 1. S. 21. VII. 24.

Where fine is not paid, informer to get 10 Rs. from Govt.

S. 93. XIII. 16.

All Suits relative to illicit Opium, (with the exception of charges against public officers for breach of official duty reserved for cognizance by M.) are cognizable exclusively by Collr.

S. 80. XIII. 16.

Process to be used by Collr.

Secs. 83. to 85. XIII. 16.

False deposition before Collr. in such cases is perjury.

S. 88. XIII. 16.

Reward to Salt Officer to be paid after Report to Board : in other cases, the informer, or captor, will receive payment on expiry of the period for appeal.

S. 97. XIII. 16.

Opium Agents may fine their subordinates 50 Rs. commutable to 1 month in Civil Jail.

C. 1. S. 23. VII. 24.

Where Defendant is released, cause should be stated in the Statement.

B. C. S. O. July 16, '49.

3.—*Sale of Opium.* Secs. 53 to 74. XIII. 16.

Persons may have 5 tolahs of opium in their possession, being opium manufactured and sold by Govt., and intended for private use. A greater quantity than 5 tolahs shall be considered contraband, and subject to the usual pains and penalties.

S. 3. XI. 18.

Native medical practitioners may be permitted to have a large quantity.

S. 3. XI. 18.

Opium Departt. to be credited with value of opium from date of delivery to party receiving it, and amount debited to Inefficient Balance at the rate of 5 Rs. per seer of 80 Tolahs.

Acct. March 13, '44.

Treasury Rules regarding Opium, see *Manual*, 62, 63.

4.—*Responsibilities of Opium Officers.*

Opium Darogah conniving at illicit cultivation of Poppy ; 20 Rs. or 32 Rs. fine per beegah, according as Opium is seized, or not ; or 6 months.

S. 36. XIII. 16. S. 18. VII. 24. S. 29. XX. 17.

Do. Do. Any Opium subordinate.

S. 37. XIII. 16.

OPIUM. Opium Officers using unsealed, or false, weights and scales, fine of 500 Rs.

S. 13. XIII. 16.

5.—*Responsibilities of Police.*

Police Darogah to receive annually from **M.** who will receive from Opium Agent, a list of opium Assamees, and be instructed to use his best endeavours to prevent the illicit cultivation of the Poppy.

S. 29. XIII. 16.

Collr. will also give lists of persons licensed to sell opium, to the Darogahs, who will chulan in any others found selling. **M.** will make over chulan to Collr.

S. 78. XIII. 16.

Police Darogah on receiving information of illegal cultivation, to proceed immediately to the spot, attach the crop, and take security from the cultivator to attend before Collr. or chulan him in if he cannot give security.

S. 35. XIII. 16. C. 10. 11. S. 29. XX. 17.

Police Darogah conniving at *illicit Cultivation ;* Dismissal ; fine stated in S. 31. XIII. 16., namely, 20 Rs. per beegah, if poppy is on the ground, and 32 Rs. per beegah if the opium has been extracted ; commutable to 6 months.

C. 12. S. 29. XX. 17.

Darogah conniving at *illicit opium ;* by **M.** 8 Rs. per seer, commutable to 6 months. If quantity be not known, 1000 Rs., or 6 months.

C. 6. S. 18. VII. 24.

Any officer of Govt. apprehending forcible resistance in the seizure of opium, to apply to the nearest Police Darogah, who is bound immediately to afford the requisite aid ; the responsibility lying with the party applying.

C. 8. 9. S. 18. VII. 24.

Collr. can apply to **M.** for the assistance of the Police in apprehending persons charged, in attaching crops, or seizing illicit Opium.

S. 90. XIII. 16.

OUSTER. OUSTER.—See "Summary Suits IV."

PARDON. PARDON, (see "Confession,") "Accessary," may be tendered to accomplices in Murder, Gang Robbery, Highway Robbery, Thuggee, Coining, Forgery, aggravated Burglary, and Theft, by **M.** and **J. M.** on condition of a full confession, without reference to any other authority.

S. 3. X. 24. S. 7. I. 29. Cons. 152. 405. 1232.

Assistt. has not the power.

S. 6. X. 24.

PARDON.

Such pardon and evidence of accomplice not admissible in *Affray*. Con. 535. Jany. 1, '30., or in False Imprisonment, or other crime *not* enumerated in C. 1. S. 3. X. 24.

Con. 1026. July 28, '36.

S. J. may direct the committal of a pardoned accomplice; but in such case his statement cannot be received as evidence against him.

Con. 1041. Augt. 5, '36.

Prisoner admitted as evidence, to be examined de novo, instead of merely swearing to the truth of his former answer.

Con 1137. March 9, '38.

M. not competent to recall offer of pardon, but to report the non-fulfilment of conditions to Judge.

N. A. R. V. 5. 76.

King's evidence to be examined without oath.

C. 2. S. 3. X. 24.

Magtr. to record his reasons for offering pardon.

C. 3. S. 3. X. 24.

Pardon may be tendered to more than one; and 24 hours allowed them to consider the offer.

Con. 405. Septr. 5, '25.

Accomplice giving information of Dacoitee, or Burglary, to Police; to be pardoned.

Con. 89. July 11, '11.

M. cannot offer pardon after commitment.

Con. 857.

S. J. may direct offer of pardon under C. 2. S. 5. X. 24. but not after prisoner has been put on his trial at sessions.

N. A. R. V. 4. 32.

M. to be very cautious in not tendering pardons to principal offenders; and in no case to make the offer to accomplices, or accessaries, without a reasonable prospect of recovering the property plundered, or of securing the apprehension and conviction of the principal offenders, or of the receivers of the stolen property.

C. 1. S. 4. X. 24.

He should record in English, or Vernacular, his reasons for offering pardon.

C. 3. S. 3. X. 21.

When there is no prospect of obtaining other evidence, M. not to offer pardon.

C. 2. S. 4. X. 24.

PARDON. Suptt. of Police to report to N. A. instances of injudicious offers of pardon.

C. 3. S. 4. X. 24.

S. J. when holding Sessions, can order commitment of King's evidence, if he has not conformed to the condition, by wilful concealment, or giving false information.

It is also competent to S. J. at time of trial, to instruct M. to tender pardon to any accomplice, or accessary, for the purpose of obtaining his evidence on oath, as a witness on the trial.

C. 1. 2. S. 5. X. 24.

N. A. can revise, and annul pardons granted on insufficient grounds.

C. 3. S. 5. X. 24.

PARTITIONS. PARTITIONS.—*1st, On application of Parties.*
2nd, Under Decree of Civil Court.

Partitions, when fully carried out, involve entire severance of interest between the divided portions of the estate.

But an imperfect kind of partition often takes place, when the properties of the individual co-parceners are separated the one from the other, whilst the joint responsibility is maintained. In such case, the common lands may be divided according to the law which regulates the distribution of profits in the village, whatever it may be, whether ancestral share, or village custom. It is desirable that partitions of this kind should take place, whenever the proprietors can be induced to agree to them. Under this process, the estate ceases to be *Zumeendaree*, or imperfect *Putteedaree*, and becomes Putteedaree.

Directions. 169.

The Board have ordered that an objection of a sharer, if not satisfied, is at any time sufficient to stop one of these imperfect partitions; but, according to the Note to *D.* 168. "under the powers now vested in Collrs. by VII. 22. they can enforce the imperfect partition as well as the complete division; but any person can claim the latter in preference to the former under the terms of XIX. 14."

Another kind of partition is what is called a *Kum-o-beshee* case; where the quotas of revenue paid by the different shares, have become unequal. At the Settlement, the Collector can offer the proprietors their option, of considering their quota of jummah as regulated by their ancestral shares, or the extent of their possession, to be the measure of their rights. In the former case, he alters possession so as to make the value of each property proportionate to the demand upon it. In the latter case, or if they cannot agree among themselves, he upholds possession, confirms each man in his property and distributes the jummah upon the several properties.

After the settlement, the Collr. if invested with the powers of VII. 22, can enforce any provision which may have been made at the time of settlement to meet such a case.

If after Civil Suit, the possession of sharers be upheld, and division of the several properties into separate estates be ordered by the Court, the Collr. will distribute the jummah fairly over the newly formed estates under S. 30. XIX. 14.

PARTITIONS.

In order to enable Collr. to make partitions of estates on application of the parties, it is necessary that the co-parceners be unanimous. If, however, Collr. is invested with powers of VII. 22., he may make partition *according to stipulations at the time of settlement ;* or without such stipulation, *provided he does not disturb the existing proprietary possession of lands.* He can always divide common land, and he can re-partition the whole estate in pursuance of a former agreement, or decision, to that effect ; but he cannot disturb old possession of land of his own authority. He is able, however, to apportion the jummah on the properties.

Under S. 5. 10. IX. 11. and C. 2. S. 4. XIX. 14. Collr. cannot decline to divide an estate, if the co-parceners are agreed as to the amount of the shares to which the persons seeking separation are entitled. Objections on the mere ground of reluctance to break up the existing community, not sufficient. It often happens that a clause is entered in the settlement administration paper, declaring that any one of the sharers is entitled to have his share divided off at pleasure.

Directions.

Such clause is sufficient to refute claim to hold excess of land above that which their ancestral shares entitle them to.

Commr. 5th Division, July 27, '48.

The Collr. should refer to the Settlement Record, and find what rule was established at that time respecting the right of separation ; and will be guided by it in respect of granting, or refusing, the application. If satisfied that the parties are entitled to a Partition, he will make it as directed in Paras. 235—245. S. B. III. If otherwise, he will refuse to make the separation without a Decree of Court.

S. B. III. 245.

S. 2. *It is in the option of any joint proprietor to separate his property from the rest of the Mehal,* by demanding the division of the estate under the Regns. passed for the purpose. S. 3. If the share, or extent of land, possessed by the proprietor is known, and beyond dispute, the Collr. is *bound* to make the division on application of the proprietor ; otherwise, the proprietor must first establish in the Civil Court his right to the share, or land, he claims. S. 4. The division of the estate must be effected by the equable apportionment of the demand upon the several portions of the joint estate according to the capabilities and assets ascertained at the time of division as prescribed in C. 4. S. 37. XXV. 03. The separation of proprietors, or the adjustment of jummah made at the time of settlement, will *not* be binding, but the land will be divided, or the jummah will be adjusted, on the same considerations as would have influenced the determination if a new Settlement had been in progress at the time of the Partition.

S. B. May 8, '49.

In the first place the Collr. will ascertain from the Records, whether the tenure be pure Zumeendaree, or any description of Putteedaree. (See "Landholder, No. 3. *Tenures.*")

If the tenure be *pure zumeendaree* held in common tenancy, that is, if every sharer have an equal right in every part of his estate, without any separate title to distinct lands, the partition shall be made exactly in the mode laid down in Secs. 1—29. XIX.

PARTITIONS.

PARTITIONS. 14.—The Collr. will carefully remember, that the mode of partition directed by XIX. 14, and detailed in the above Sections, is applicable to tenures of pure zumeendaree, and *to such tenures alone*. All tenures in which the sharers have a "*separate right to distinct lands*"—that is, all bhyachara and putteedaree tenures, whether perfect, or imperfect, are excluded from the operation of the above Regn. by S. 30. The whole estate will be divided into portions corresponding with the shares, and assigned to each party by their consent, by arbitration, or by lot.

Directions. 174. S. B. III. 235, 236, 237.

The mere fact of there being *Seer* cultivation is not sufficient to throw a Partition under Sec. 30.

S. B. April 28, '48.

The parties may agree to waive the exact provisions of Secs. 1—29. When, also, the land held in severalty in putteedaree villages is very small, such as gardens of individual sharers, the partition may go on without reference to them; and if they should fall into other shares than those of their proper owners, a fair rent may be fixed upon them, as in the case of dwelling houses under S. 9. XIX. 14.

Directions.

Where the tenure is *imperfect putteedaree*, part of the land being held in separate possession, and part in common, the Collr. will first assign to parties entitled to partition the lands held separately by him, or them, as recorded in the Khuteonee, and afterwards divide off, in the mode prescribed by XIX. 14. the proportionate share of the common land, whether waste or cultivated, to which they are recorded as entitled in the paper of settlement.

S. B. III. 238.

This plan is peculiarly desirable in imperfect partitions; but in complete divisions, where the lands held in severalty by the same person, are scattered and distant from one another, it will be better if the co-parceners can be prevailed upon to relinquish their old lands, and to make an entirely new, compact, *Kitabut* arrangement.

Directions. 175.

In fixing the jummah to be separately paid after partition in this case, if the jummah of the whole share have been fixed at the time of settlement, that will be the jummah of the new mehal. If the jummah of the land held separately, but not of the common land, have been fixed at the time of settlement, the Collr. will add a proportionate amount of the jummah assessed on the common land to the jummah assessed on the land held separately; and the aggregate amount will be the jummah of the new mehal.

S. B. III. 239.

If the tenure be *perfect putteedaree*, the whole of the fields having been separately assigned at the Settlement, the future disposal of the waste land provided for, and the jummah to which the share is liable assigned, the only process required is to portion off the waste land in the mode already provided for at the Settlement, and to declare

the Puttee henceforth a separate mehal. The estate being already imperfectly divided, the division now made must be a complete one. PARTITIONS.

S. B. III. 240. *Directions.* 176.

In every case the fields composing the new mehal must be coloured in the field map with one colour, and the entries of those fields in the general Khusreh of the village must be excerpted into a separate Khusreh. A separate Khuteonee and Terij for the new mehal must be made, and a copy of the original field map, similarly coloured, be traced; and these documents must form the foundation of the records of the new mehal.

S. B. III. 241.

A new head must be opened in the record Register, the Touzee, and the Malgoozaree Register of intermediate mutations, and the mehal must henceforth be treated to all intents and purposes, as a separate estate.

S. B. III. 242.

In making a partition, the first step is to make an accurate measurement and appraisement of all the lands by a skilful Ameen, who will also prepare a shujrah, or field map. If, however, the settlement Khusreh and field map are considered accurate enough to form the basis of the partition, the trouble and expense of a new measurement may be avoided. The work should be conducted as much as possible in the presence of all the members of the community, and tested by the Tuhseeldar, or some respectable officer.

Directions. 180.

The co-parceners should then be called upon to decide how they wish the partition to be made; whether ancestral right, or village custom, is to be the measure of their shares; whether they will throw the whole land into a common stock, and re-divide it anew; or whether each will retain his severalty and make good inequalities by additions from the common land; and if the latter, how the additions are to be made,—by fixed rule, such as contiguity, or former possession, or nature of soil, or by the award of a common arbitrator. It must also be primarily decided whether the estates are to be intermixed, or separate, (*Khefbut* or *Kitabut,*) and also how far the partition is to extend, whether to the jheels, barren land assamees, and village site; or whether any of these are to be left in common (for Houses &c. &c. see "Dwelling Houses"). The agreement should be full in all its parts; it should be drawn out in writing, and should be signed by as many of the community as will consent to sign, before the parties are allowed to depart.

Directions. 181.

When the mode of partition is thus determined, a copy of the agreement should be given to the Ameen, who should go to the village, to carry its provisions into effect, and to return within a fixed time, with all the papers drawn out for the new mehals. If any difficulties are started which the Ameen is unable to overcome, he should immediately without any delay report them for orders.

Factious opponents should not be permitted to cause delay; and S. 21. XIX. 14. empowers Collr. to impose fines for wilful opposition to his proceedings.

Directions. 182.

PARTITIONS.

PARTITIONS. It must be borne in mind, that the Ameen naturally has an interest in fomenting discord, and protracting the operation, as it affords him many openings for unauthorized gain. This can be only checked by knowledge of the subject, constant attention to the progress of the work, and prompt punishment of any misbehaviour of the Ameen, by fine, or removal. The tendency is much lessened by having a set of practised Ameens always at hand, whose interest it may be, by rapid and faithful execution of their work, to retain their places, and get a large share of the work.

Directions. 183.

It has been determined by Govt. with reference to XI. 38. that the scale of allowance fixed by XIX. 14. should be continued for the present to be given to Ameens—namely,

On a Jummah not exceeding 500 Rs.—10 per cent.

On a Jummah of 1000,—ten per cent. on first 500, and 8 per cent. on the second.

On a Jummah of 2500, as above on 1000, and 5 per cent. on remainder.

Directions. 183. S. B. IV. 4.

When the partition has been completed, the fees authorized by XXIII. 03. should be levied from the parties from whom they are due, under Sec. 14. of that regulation, namely, from those who are bound to pay the expenses of division under Secs. 31, and 32. XXVI. of 1803. But these sections have been resoinded by XIX. 14. which enacts that the expenses are to be borne by all the proprietors at large, in the proportions of their respective shares, unless otherwise arranged among themselves; the amount to be levied as an arrear of revenue. Whenever the whole amount shall be tendered to Collr. by one, or more, of the parties, he shall receive the same.

Directions. 184. C. 3. S. 4. XIX. 14.

Although Collr. cannot legally reject an unopposed application for partition, under S. XIX. 14. he may often manage to make a separation sufficient, under I. 41 to confine the penalty of default, except in extreme cases, to the party by whom it has been incurred. In regular Partitions, Collr. has no option, but must strictly adhere to the letter of XIX. 14. When *cutcha* partitions are made through Tuhseeldar, or Punch, they do not require formal confirmation, and need not be forwarded to Commr.

S. B. 4. July 10, '46.

The course to be followed, and the principles to be observed, are the same in both complete and imperfect Partition. The separate portions of the estate are to be in conformity with the rights of the parties; and the distribution of the Govt. demand over the several portions is to be equable. In the former case, however, greater caution is necessary, because as the joint responsibility of the co-parceners is dissolved, the interests of Govt. are concerned in providing that the distribution be equitable. Collusive and unfair divisions, by burthening one portion of the estate with an excessive demand, would cause loss to Govt. Hence under S. 25. XIX. 14. although the S. B. is authorized to confirm such divisions, the power is reserved to Govt. to annul the division within 10 years, and to order a new division, if it be proved that the Jummah was fraudulently or erroneously apportioned.

Directions. 171.

PARTITIONS.

In cases of irregular and erroneous division on the part of Collr. the owners of the separate portions are *not* jointly responsible for arrears, that occurred prior to the discovery of the error ; but the irregular division is in itself null and void, and a new division may be made.

Directions. 172.

In Putteedaree estates, where the rights of the parties are expressed in fractional shares of the estate, the complaint of the person claiming partition will be, that though he pays his revenue according to his share, he possesses less land or land of less value, than is due to him according to that share. He will pray that his holding, be brought into accordance with his share.

Supposing that the asserted inequality really exists, the Collr. has no power ; without the consent of the parties, to disturb lengthened possession. He can adjust the dispute by requiring from each party an amount of the jummah proportioned to the value of the share. But by suit in the Civil Court, the claimant of a larger portion of an estate may make good his right, and obtain a decree for it. This repartition of the lands may appear hard upon the owners of the improved shares, because they will have to pay the same Jummah as before, from less land ; but this is the necessary result of S. 37. XXV. 03. which requires the public revenue to be assessed on each portion according to the actual nett produce at the time of the division.

Directions. 177.

When the rights of the co-parceners in a putteedaree estate, consist of certain fields within the area of the mehal, on which the Govt. demand is distributed by local custom, division of the estate, or re-allotment of the demand, will be claimed whenever from any cause the demand presses more heavily on some properties than on others. The greatest caution is necessary in such operations, and they should not be effected unless on the demand of the parties, or with the full understanding and entire consent of all who are concerned. The allotment of Jummah must be made according to the assets of the several portions *at the time of division ;* and on no account should the several portions be declared separate mehals, with the Jummah allotted to each at the *time of settlement,* unless it be found on enquiry that the allotment then made is still in accordance with the actual nett produce. The observance of this rule is essential to the security of the Govt. Revenue.

Directions. 178.

2nd. Partition under Decree of Civil Court.

Most of the above rules are applicable ; but many of the steps of the process which are ordinarily submitted to the wishes of the parties, or ruled by Collr. come under the cognizance of the Court.

If the decree is for a fractional portion of an undivided estate, the Court will see that a proper portion of the estate is conveyed to the decree-holder, in conformity with the rule of S. 8. XIX. 14. (as to the advantages or disadvantages of situation ; vicinity of roads, or rivers ; the nature and quality of the soil and produce ; the quantity of waste land ; the depth at which water is procurable, &c. &c., and every other local circumstance affecting the present, or likely to influence the future value of the lands.)

Directions. 294.

PARTITIONS.—PAUPER.

PARTITIONS.

If the decree is for certain specified lands in a joint undivided estate, on which Collr. is required to fix a fair proportion of jummah, and thus to form it into a separate estate, he should treat the representations of the Court with all deference, and in finally reporting the case for confirmation, should state such representations, and how he has disposed of them.

Directions. 295.

It may sometimes happen that partitions are ordered in terms inapplicable to the state of property in the Mehal. A decree may be given for a fractional share, when the estate consists of several separate independent properties; and it may be difficult, if not impossible, to determine how the decreed portion is to be separated, or from whose lands it is to be taken. Such cases used to be more frequent, and the Sudder, by Rule 7. of C. 1143. of June 24, '42. declared such decrees incapable of execution, and ordered them to be struck off the file, with leave to parties to bring a fresh suit.

Now more care is taken in requiring every plaintiff to bring his suit in terms applicable to the state of property. If, however, any case of difficulty should occur, the Collr. should explain the circumstances to the Courts, and await their instructions. These instructions should be followed as far as may be practicable; but, if the Collr. is still at a loss how to proceed, he should refer to the Commr., and be guided by his advice.

Directions. 296.

In making Partitions by order of Court, Collr. should restrict himself to the simple execution of the decree, and not dismember a whole mouzah where the order relates only to the separation of one share.

S. B. No. 4. July 10, '46.

When ordering partition, Civil Court to require an estimate from Collr. of expense of making it. On receipt of his reply, notice to be served on decree-holder to deposit the amount in Court within any reasonable period not exceeding 6 weeks. Should the money not be paid within the period allowed, his application for execution to be struck off the file, and intimation given to the Collr.

C. D. A. 450. April 12, '47.

PAUPER.

PAUPER.—A statement in annexed form, to be furnished monthly by Judge to Collr. to enable him to take measures for recovering the amount due to Govt. on account of Stamps in pauper Suits.

C. April 24, '46.

An additional heading of "Law Expenses" to be inserted.

C. Augt. 13, '47.

Govt. application for recovery of Stamp duties in Pauper Suits, can be made on plain paper.

S. D. A. Jany. 13, '49.

Previous sanction of Commr. is necessary, before incurring expense in Pauper Suits; and such applications to be kept carefully distinct from those of other suits in which Govt. is concerned.

Commr. 5th Division. Jany. 31, '48.

PAY.—PENSIONS.

PAY.

PAY.—Officer attached to one Zillah, and deputed to officiate in another, and also Civil Officers on sick leave within the limits of the Presidency, are authorized to receive their nett pay and allowances at the Revenue Treasury, nearest to the place at which they may reside, their pay being passed by C. A. on a separate bill.

The Officer in charge of the Treasury shall, after payment, send the bill duly receipted as a remittance to the Collr. of the Zillah to which the Officer may be *permanently* attached. All deductions made by the C. A. must be credited in the accounts in which the allowances may be chargeable to Govt. namely those of the Division, or Zillah, to which the officer on leave, or deputation, belongs.

Officers on leave, *or private affairs*, are entitled to the same indulgence on payment of a premium of one per cent. The Collr. of the Zillah to which the Officer may belong will credit the disbursing Treasury with the amount remitted, and charge the proper head with the full amount.

Manual. 63. 64.

PENSIONS.

PENSIONS.—Detailed rules for investigating, and reporting.

S. B. IV. Sec. 16.

Collrs. are empowered by XXIV. 03. to investigate pensions.

By S. 8. it is made a particular object of their attention to ascertain whether the persons at present receiving pensions are the individuals to whom the pensions were originally adjudged; and where it may appear that the individuals to whom the pensions were adjudged are dead, they should discontinue payment until it shall have been determined whether the pensions, or any part of them, should continue to the heirs and successors, or otherwise.

S. B. IV. 113.

In Family pensions, the whole pension should continue to be paid, so long as any of the originally named pensioners survive.

S. B. July 4, '48.

On the death of a pensionary acting as Supt. of a Shrine, &c. &c., and drawing an allowance in trust for its appropriation to objects connected with his ministerial office, the pension is to be considered open to revision, upon the merits of the case.

S. B. IV. 118.

In resumed Maaffees, one half of the assessed Revenue may be proposed as an annuity to the maaffeedar. If the moiety be less than 10 Rs. it should be made up to that sum; and if the jummah is less than 10 Rs. a stipend equal to the whole amount of assessment should be recommended as the life pension of the maaffeedar.

S. B. IV. 123. 124.

No pension can be allowed where the ex-maaffeedar has been admitted to engage for the resumed lands; and in soliciting pensions for those who are excluded, the cause of their exclusion, as well as the grounds of the recommendation in their favor, should be clearly and fully stated.

S. B. IV. 125.

PENSIONS.

PENSIONS.

The Pensions will take effect from the date on which the maafeedar's interest in the resumed land ceased; and in cases of joint claims, the statement must give the names of all who are to receive, and the share of each pensioner: and the payment of each will cease on the death of the nominee.

S. B. IV. 126. 127.

Arrears of not more than 6 months can be paid to heirs of pensioners by order of Commr. When the arrear exceeds 6 months, the sanction of the Board is required.

S. B. IV. 119.

Collr. is personally responsible that he pays pensions to the right persons. Great vigilance is necessary to prevent impositions in this respect, and especially to provide that the lapses of life pensions be punctually reported.

Directions. 348.

Under G. O. April 23, '23, and April 15, '31, Commrs. can sanction the transfer of pension from one treasury to another; but they should inquire into the reason for the transfer, in order to guard against impositions. The necessary communication should of course be made to the Accountant.

S. B. IV. 130.

Govt. sanction is required to transfer Pensions from one Presidency to another.

S. B. Augt. 4, '48. *Manual.* 65.

Pensions from Govt. are *not* liable to attachment for Decrees of Court.

S. B. IV. 131. Con. 788. May 3, '33.

For securing Military and Naval Pensions and Superannuation Allowances.

Whereas it is expedient to consolidate and extend the operation of the law, as to the exemption of Military and Naval Pensions, and other Superannuation Allowances from seizure under process of law, It is enacted as follows :—

I. Regulation XII. 1814 of the Bengal Code, and Act XXXI. 1845, are repealed.

II. The reduced pay or pension, however called, of any Invalid Officer, Soldier, Sailor or Retainer of the Army or Navy, in the Military or Naval Service of the East India Company, and also any monthly or yearly pension, or pecuniary allowance to any person, in consideration of past services and present infirmities or old age, granted by authority of the Governor-General in Council, or of the Governor, or Governor in Council, or Lieutenant-Governor, of any Presidency or Place within the territories under the Government of the East India Company; and also the pension of any Out-Pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively, and also all money due, or to become due on account of any such pension or allowance, shall be exempt from seizure, attachment or sequestration by process of any Court within the said territories, at the instance of a creditor, for any demand against the Pensioner, or in satisfaction of a decree or order of any such Court.

III. All assignments, agreements, orders, sales and securities of every kind, made by any such Pensioner, in respect of any money not payable at or before the making

thereof, on account of any such pension, or for giving or assigning any future interest therein, are null and void. PENSIONS.

IV. This Act shall not apply to any process of any Court established by Royal Charter, issued out of such Court before the passing of this Act, or to any assignment, agreement, order, sale or security by any such Pensioner previous to this Act.

No payments of Pensions as hereditary, or perpetual, to be made to heirs without sanction of Govt.

G. O. Octr. 13, '34.

Names of persons for whom pensions are requested, with their fathers' names,—age, —service,—period,—amount of pay,—average of last 5 years,—grounds of application, —remarks,—to be furnished, according to the form of Appendix XXII. S. B. IV. 106.

Applications for Judicial Superannuation Pensions, to be made through N. A.

C. 785. May 2, '42.

Period of service passed in a grade not eligible to pension, not to be inserted, or counted. Grades, and period of service in each, to be given under two new headings. C. 870. May 13, '42. Rates of salary in each grade to be also given.

C. 1246. July 11, '42.

Amount of *Pension* to be deducted from salary of office to which a pensioner may be appointed.

G. O. March 20, '46.

Superannuation Pensions will be granted only to the superior classes of public servants. Inferior servants, Sowars, Peons, Jemidars, &c. &c. have no claim to such provision.

Jailers are entitled to pension.

C. 179. Septr. 13, '44.

The justice of giving superannuation pensions only to the higher ranks of servants, is not very clear. *They* may, by some means, have collected sufficient to support themselves in old age; but the inferior servants cannot. What then is to be done with them? After a poor man has served Govt. for 30 or 40 years, are you to turn him out, merely because he has grown old, blind, or infirm, in the faithful discharge of his duty? At the same time, if you do not dismiss him, you have a useless hand in your already small and inefficient establishment. Public officers ought not to be placed in this dilemma. A man who has served Govt. faithfully during his health and strength in ill-paid inferior offices, has an equitable right to a pension when, after 30 years' service, he becomes unfit for the active discharge of his duties. He ought to be placed on the pension list, whilst a young and efficient man is put in his place. As the rules stand, an officer must either be heartlessly cruel to men who were, perhaps, in the service of Govt. before he was born; or he must allow men to remain on the rolls who are utterly unfit for duty. This ought not so to be; and I hope to live to see the rule altered.

With the exception of Native Judges, and Law officers, 20 years' service required.

The applicant must be incapacitated for further employment, by old age, protracted ill-health, blindness, or other bodily or mental infirmity.

PENSIONS.

PENSIONS

His character, conduct, and past services must be favourably certified by the officers under whom he has been employed.

From 20 to 30 years' service, ½d average of 5 years' salary. Above 30 years, ⅓ of average salary.

(*Directions.* 19. Appendix No. I.)

For Law Officers and Native Judges, the period of 15 years is substituted for 20 years, and 22 years for 30.

The rates of pension will be fixed on a graduated scale within the prescribed limits with reference to the responsibility and arduousness of the employment, the merit of the individual, and the nature and length of his service.

A pension will hereafter be granted to the family of a servant, when he is killed in the execution of his public duty, or shall have died of wounds or accidents sustained therein.

Full details to be given of services. If the officer making the application cannot supply them from his personal, or official knowledge, he can call upon the individual in whose favour the application is made, to furnish a written statement on such points as may be necessary.

If the individual be unfit for further service, a *medical certificate* (from invaliding Committee G. O. Feby. 6, '49,) to that effect, to be transmitted with the application.

Each application to be made by head of office, in a letter to Govt. and accompanied by register in the accompanying form.

Lapses of Pensions to be communicated to C. A. as soon as possible; and a proper person to be appointed in each office to report all lapses, and along with themselves, be responsible to Govt.

No arrear above 6 months shall be paid without the express sanction of Govt. obtained through C. A.

Moonshees drawing more than 10 Rs. Darogahs, Mohurrirs, Nazirs, &c. &c., have eventual claims to superannuation pensions.

G. O. Jany. 4, '31.

With reference to Resolution of P. in C. of Decr. 30, '48, authorizing Local Govts. to insist on applicants appearing before Medical Boards, or Military invaliding Committees, or to assemble special Committee, or to accept the certificate of a single Medical Officer if they see fit to do so; Govt. having discovered that certificates of single Medical Officers are often untrustworthy, has ordered that in all future applications for pensions in the Civil Departt. of N. W. P. the applicants appear before an invaliding Committee, and obtain from them a Medical Certificate. When this may not be practicable, the officer recommending grant of pension will state the circumstances which prevent the observance of the rule, in order that the propriety of dispensing with it may be considered.

G. O. Feby. 6, '49.

Persons entitled to pensions not exceeding 50 Rs. a year, shall attend once a year to be identified and compared with the Register, and undergo such inquiries as Collr. may deem it necessary to make to guard against fraud. Provided, however, that where Collr. may be satisfied, after making the fullest inquiries possible on the subject, that

the pensioners are actually precluded by sickness or infirmity from attending in person, or are purdah-nusheens; the first quarterly payment may be issued to any person duly authorized by the pensioner to receive it.

S. 5. XI. 13.

The three remaining quarterly payments may be made by any officer commissioned by the Collr.—who should go to the residence of pensioners, and ascertain fully whether they are living, and the real pensioners. In case of doubt and suspicion, he should refer to Collr. for orders.

C. 3. S. 5.

Any person proving that a pension is fraudulently or unduly *received*; to have a reward equal to 6 months of the pension.

S. 6. XI. 13.

Pension Bills to be alphabetically arranged, and sent for Audit in prescribed form, distinguishing the departments to which they belong, with separate totals for each head.

Abstracts of Treaty and Charitable pensions to be furnished monthly; Maaffees quarterly.

C. A. May 9, '43.

Native *Military* Out-pensioners, who are specially allowed to receive their stipends from a Civil Treasury instead of from Pension Pay Office, will nevertheless be registered and borne upon the Rolls of Pension Pay Master in common with other Pensioners, and their payment will take place half-yearly, only as prescribed in Article 147, and to effect this, Collector, or other disbursing Officer, upon the personal attendance of a Pensioner within the prescribed periods, will prepare and forward to the Pension Pay Master in whose circle the Pensioner's roll is registered, a duly attested and receipted bill for the amount of stipend due for the preceding half year. The P. P. M. on receipt of such bill, will immediately remit a draft for the amount on the authorized treasury, and charge the same under its proper classification in his own disbursements.

Pay, &c. Audit Regns. Article 151.

Collectors are authorized by G. O. March 22, '16. to pay the pensions of Widows of Military Officers, residing within their district, which they may be entitled to receive from the B. M. W. Fund. The documents required are, the certificate of the Officer who last paid her, and a bill in the following form. "The Widows' Fund, Dr. To my pension as widow of the late A. B. (state Rank) for the month of——(Name of Place; Date)

Received Contents,
(Signed) C. B."

Both the Bill, and certificate of last payment, must accompany the Treasury Account in which the sum paid is charged; and a Bill must be drawn monthly upon the Managers of the Fund for the amount, in favour of the Sub-Treasurer, which bill should be forwarded to the Officer to be recovered and credited accordingly.

Manual. 65.

PENSIONS.

Bills on, or for, Secretary to the Military Fund, should only be for the *net* amount due from, or to the Fund.

Manual. 66.

In payments of Pensions, certificate on honor of Identity to be exhibited on bill.

In cases of Out-Pensioners, and other Military Pensions, a second certificate as to keeping up the Register prescribed by Para 6. G. O. April 22, '20. must be added.

Manual. 66.

PEONS.

PEONS.—See "Land Revenue, No. 1. Dustuks," "Processes," "Nazir," "Summons," "Charge."

The Tulubana, not to exceed 2 annas a day; ¾ to go to Peon, and ¼ to Nazir.

S. 24. IX. 07. C. 8. S. 14. XXVI. 14.

Peons to have chapprasses, and a table of rates of tulubana to be published.

C. 4. 5. S. 14. XXVI. 14.

Any Peon demanding, or receiving, more than the above tulubana, to refund amount, and be dismissed.

S. 14. IX. 07.

Piadahs to be registered, with name of father, age, abode, and description, and Nazir not to employ unregistered persons.

S. 14 XXVI. 14.

Nazir may advance a portion of tulubana to piadah.

Con. 1084. March 31, '37.

PERJURY.

PERJURY—Is "giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, before a Public Officer authorized to take the same, upon a point material to the issue of the case."

C. 1. S. 4. II. 07.

N. A. R. V. I. 282, which required that when different depositions have been given before M. and S. J. it was necessary that one of the two contradictory statements should be proved, is altered. In case of contradictory statements, the count should run, thus ——— C. 126. July 23, '41. but this form, and Circular, has in its turn been modified, and the following substituted:—

"Perjury, in having on the ——— intentionally and deliberately deposed under a solemn declaration taken instead of an oath, before the ——— of———, that (here enter the first statement); and in having on the ——— again intentionally and deliberately deposed under a solemn declaration taken instead of an oath, before ———, that (here enter the second statement); such statements being contradictory of each other on a point material to the issue of the case."

C. 725. July 23, '47.

PERJURY.

In other cases of Perjury, the following form is to be used.

"Perjury, in having on the ——— deposed under a solemn declaration taken instead of an oath, before the ——— of ———, that (here enter the false statement in which the Perjury consists); such deposition being false, and having been intentionally and deliberately made on a point material to the issue of the case."

C. 725. July 23, '47.

The Time, Place, and Court, in which Perjury was committed, should be inserted in the charge.

N. A. R. V. 5. 166.

A false oath in a Judge's private house is *not* Perjury.

Con. 627. Feby. 28, '31.

A conviction of Perjury cannot take place on a mere confession of having been induced to swear falsely, when the truth or falsehood of the facts sworn to, may be doubtful.

N. A. R. V. I. 314.

With reference to the contradictory precedents (N. A. R. V. 4. 10. 259. and V. 5. 175.) the Court consider that in cases of witnesses falsely denying relationship, each case must be taken up on its own merits; and that such false denial, if the relationship be clearly proved, is perjury on a point material to the issue of the case.

Letter to S. J. of Goruckpoor, May 10, '47.

False evidence not perjury, if such evidence be improperly required.

N. A. R. V. I. 138. 349. V. 2. 180.

Do. by unauthorized person.

N. A. R. V. I. 326. 386. V. 2. 154. 202. V. 3. 171. 212.

Deposition before Omlah not complete till certified by M.

N. A. R. V. 5. 70.

Apparent similarity of handwriting, not legal proof of perjury.

N. A. R. V. I. 113.

Putwarree or other person by whom Village accounts are kept, intentionally or deliberately giving a false deposition on oath before Revenue Officer relative to the lands, produce, collections, or charges of the village, to be committed, and receive 7 years, and 2 for bents, mitigable to 3 years. XII. 17. S. 2. 4. XVII. 17. C. 248. Con. 506.

Person guilty of perjury, or of procuring, or causing :—to be committed.

II. 07.

Person committed, can only be bailed by the Committing Court.

S. 5. II. 07.

PERJURY.

PERJURY. M. not to receive charges of perjury in Civil Suits, unless the Civil Court directs, or permits, prosecution.

Con. 1206. May 24, '39. 1221. July 5, '39.

A commitment by M. for forgery, or perjury, in a Civil Suit, without reference to the Civil Court, is illegal.

N. A. R. 3. 203.

Do. in perjury before Collector, or other public officer, unless such officer transmit proceedings, with his opinion.

C. 5. S. 14. XVII. 17.

The charge of perjury must be preferred, at any interval of time, by the Judge in whose Court the offence was committed.

N. A. R. V. 2. 208.

A Complainant under IV. 40. cannot legally be sworn, and a prisoner charged with perjury in having falsely made a deposition upon oath under that Act, was consequently acquitted.

N. A. R. VI. 93.

In perjury in Civil Courts, the Judge (or P. S. A. under S. 3. I. 48.) will record his opinion, and send the misl to M. that the order of the J. may be carried into effect, and the case brought before the S. J. in the same manner as if the charge had been instituted and proceeded upon in the Court of M.

C. 2. S. 14. XVII. 17.

The separate paper containing the Charges, required by C. 54. July 16, '30. shall be drawn up and signed by the Judge making commitment for perjury, or forgery.

C. 4. March 12, '47.

In such cases the duty of M. is confined to causing the attendance of the parties and witnesses before the Court by which the case is to be tried.

C. 169. May 29, '35.

The Circular of July 14, '37. rescinded; and it is competent to S. J. to try persons committed by himself as Civil Judge under C. 2. S. 14. XVII. 17. for perjury, or subornation of perjury, any Law to the contrary notwithstanding.

S. 4. I. 48.

The same power of committing for perjury under the above clause, in civil cases pending before them, is vested in P. S. Ameens.

S. 3. I. 48.

In perjury before the *Sessions* Judge, he is at liberty to direct M. to commit the offender, and himself to try the case.

C. 169. May 29, '35.

S. J. is competent to direct the commitment of a witness for perjury, although the trial may be referrible for final orders to N. A. **PERJURY.**

Con. 1392. Decr. 13, '44.

The present solemn and cumbrous machinery for checking perjury has proved quite inefficient. Not one liar in a thousand is committed and convicted. The certainty of even a small punishment, is a much stronger check, than the remote chance of a far ~~heavier~~ one; and I believe that the power to punish all petty perjury as contempt of Court, (as *prevarication* was ruled to be by Con. 1177. before it was reversed by C. 128. Feby. 3, '43,) would do far more to put down perjury, than all the commitments and tusheers that are ever likely to take place. Every detected liar would then be suitably punished; whilst really serious cases might still be committed to Sessions as at present. I would only suggest, that in this, and indeed in all contempts, the roobakaree should not be written till next day, to give the Officer, whether Civil or Criminal, time to cool, and think twice before punishing.

PETITIONS,—see "Charges." **PETITIONS**

The transmission of Petitions by dâk is illegal, and need not be attended to.

Con. 513. July 17, '19.

PICE,—see "Treasury No. 16." **PICE.**

POISONING, with intent to rob, to be committed to Sessions, and referred to **N. A.** even though death may not have ensued. **POISONING.**

C. 4. S. 8. XVII. 17. Con. 365. May 7, '24.

This does not refer to Drugs, or substances of a merely *intoxicating* character, and not of a nature to endanger life. In making the commitment, **M.** should be careful to define the nature of the drug administered.

C. 83. March 24, '41. C. 64. Septr. 18, '40.

Poisoning with intent to murder, death not ensuing, comes under the general rule of C. 7. S. 2. LIII. 03. by which Commrs. are empowered (and by XII. 25. required) to pass sentence not exceeding 7 years.

Con. 755. Feby. 7, '33.

POLICE,—see "Officers of Police," "Bents," "Corruption." **POLICE.**

Superintendent of Police,—see "Magistrate III. 2."

POSSESSION of LANDS.

POSSESSION OF LANDS. Regn. XXXII. 03. XV. 24. and II. 29. repealed by Act. IV. 40.

Sec. 2. Whenever M. or officer exercising the powers of M., may be certified that a dispute likely to induce a breach of the peace exists concerning any Land, Premises, Water, Fisheries, Crops, or other produce of Land, he shall *record a proceeding* stating the grounds of his being so certified; and shall call on all parties concerned in such dispute, whether Proprietors, Farmers, under Farmers, Ryotts, or other persons, to attend his Court in person or by Agent, within a reasonable time, and to give a *written statement* of their respective claims, as respects the fact of *actual possession* of the subject of dispute.

M. shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire what party was in possession of the subject of dispute when the dispute arose; and, after satisfying himself on that point, shall record a proceeding, declaring the party whom he may decide to have been in such possession, entitled to retain possession until ousted by due course of Law; and forbidding all disturbance of possession until such time; and, if necessary, M. shall put such party into possession, and maintain him in it, untill the rights of the parties disputing be determined by a competent Court.

Sec 3. If M. *in cases under Sec.* 2., be unable to satisfy himself as to what party was in possession when the dispute arose, he may attach the subject of dispute until the rights of the parties be determined by a competent Court, giving the Collr. information of the Attachment: and, if the subject of dispute be Land, V. 27. regarding attachment by order of Court, shall apply to attachments by order of M. under this section.

(This is the first division of IV. 40.—for the decision of *Possession* in disputes in which there is *certified reason to apprehend a Breach of the Peace.* Proceeding as to fear of Breach of the Peace to be recorded,—parties summoned,—written statement of claims to be taken from them—and the simple fact of possession ascertained. Where this is doubtful, the subject of dispute to be attached till the right to it is determined by a competent tribunal.) M. is not authorised to attach land paying revenue to Govt. or under tenures, pending the decision of a IV. 40. case; or to call on Collr. to attach lands under V. 27. before he has come to a decision.

Con. 1347. Augt. 2, '42.

Sec. 4. "If any Party shall complain to M. that he has been without authority of Law FORCIBLY dispossessed of any Land, Premises, Water, Fisheries, Crops, or other produce of Land, whether the same were possessed by him as Proprietor, Farmer, under Farmer, Ryott, or otherwise, M. shall require the party complained against, *and any other parties concerned*, to appear and make defence in person, or by Agent, within a reasonable time.

If, after the examination of the necessary witnesses, and documents, the complaint appears to him to be substantiated, he shall record a proceeding, ordering the party complaining to be put again into possession of the subject of dispute, and maintained in possession until the right to possession be determined by a competent Court.

Provided, that no such order shall be passed, unless the claim be prefered, *within one month* from the date of dispossession.

This is the second great head of the Act, for the *re*-possession of parties FORCIBLY

ousted, on *complaint of party ousted*, preferred *within one month* of the date of forcible dispossession.

M. cannot attach lands disputed under this clause. Con. 1347. June 24, '42. The onus probandi lies with the complainant; and if he does not prove forcible dispossession, and thereby indirectly his antecedent possession, his case must be dismissed.

Care should be taken to have the subject of dispute clearly defined, with the day, time, mode, &c. &c. of the *forcible* dispossession.

Absolute proof of actual *forcible* dispossession is an indispensable condition to the restoration of the party complaining under this section to possession. The only point to be established, is, *the fact of forcible dispossession* on proof of which M. is directed to "record a proceeding, ordering the party complaining to be put again into possession." Evidence of forcible dispossession carries with it, as a matter of course, proof of antecedent possession, the maintenance of which, without reference to right, is the object of the Law.

C. 200. April 16, '45.

A complainant under IV. 40. cannot legally be sworn, or be guilty of Perjury.

N. A. R. VI. 93.

A *Mortgagee* in possession, cannot be dispossessed by M. (This agrees with the principle of S. B. Feby. 3, '46. that where money has been given as a consideration for a lease, it should be upheld, and Kharij Dakhil, which hinges on the fact of *possession*, given; whilst no mutation is made where no consideration has been paid.)

Con. 1366. Decr. 23, '42.

In disputes between Zumeendars and Kitkinadars for the possession of estates, M. should not interfere, if the Zumeendar pleads his right. Zumeendars possess the right of attachment and ejectment; and the question whether they have justly exercised this right, does not belong to M.

Con. 1333. April 15, '42.

When an Auction Purchaser of an estate pleads that he is exercising his legal right of ejectment, M. under Sec. 10. should satisfy himself whether the contested tenure is of that description which is protected by law; and, where the tenure is *not* of that description, the purchaser is not obliged to apply to any Court for the enforcement of his rights.

Con. 1312. Novr. 26, '41. Gazette of May 3, '42.

In cases where a party retains possession of land leased out to him by the Zumeendar, notwithstanding the expiry of the lease, the M. is not precluded by S. 2. from putting the Zumeendar in possession. Such cases, wherein the Landholder has a right of distraint, or seizure, under the existing Regns. *will be governed by Sec.* 10.; and on the right of distraint, or seizure, being pleaded, it will be incumbent on M. to dispose of that plea, before entering on the question of previous possession, with a view to the decision of that single point.

The principle of the Act does not differ from existing Regns. and the Zumeendar will be maintained now, as previously, in the exercise of his just and legal rights, with

POSSESSION of LANDS.

this difference, that the decision now rests with the criminal, instead of with the civil authorities.

C. 54. June 12, '40

The Civil Court cannot stay execution of IV. 40. decision, pending Civil Suit.—Rep. Sum Cases, April 26, '47.

Except where there is fear of a breach of the peace, under Sec. 2.; or actual forcible dispossession, under Sec. 4., these cases belong more properly, I think, to the heads of "Ouster" on the Collector's Summary File.

When two parties claim the indigo grown by a Ryott, M will maintain Ryott in possession. That is, supposing A. says he has grown his indigo for B but C. says that he also has given advances, and that the plant is his; M has power to maintain A's possession, allowing him to make over the disputed plant to either C. or B as he may think fit, and to prohibit C. from attempting to take forcible possession. C has his redress in the Civil Court against A. or B. under VI. 23. and X. 36, and may, upon giving security, on a summary enquiry, if his right be best, be enabled to cut and carry away the disputed plant

Con. 1359. Septr. 2, '42.

G O. of Novr 6, '44, reversed by S. 6. I. 47. which prohibits M. from taking up *Boundary disputes* under IV. 40. Whenever Magistrate has reason to apprehend any breach of the peace in consequence of a disputed boundary, he should certify the circumstances to the Collr. who will immediately mark off the boundary, and uphold possession according to the demarcation.

C 330. March 15, '45. cancelled, and Assistant with special powers authorized to decide IV. 40. cases.

XXVII. 45.

S A may not try IV. 40. cases.

Cons 689. of 1832. and 15. of 1843.

M. can restore land *with the crop upon it*, although the latter may have been sown by the wrongful dispossessor.

Con. 378. April 8, '25.

In disputes for *chattels*, or other *moveable* property, M can only interfere when there has been illegal and forcible dispossession.

Con. 1349. July 1, '42.

If a person should construct a *Bund* on his own land, injurious to the property of another; the case would come rather under the cognizance of the Civil, than of the Criminal Courts; but cases may arise, in which the immediate interference of M would be proper to prevent a breach of the peace, or serious injury to the property of complainant.

Con 1091. April 28, '37.

The limit of complaint within a month, not binding on Sipahees, with reference to

whom M. shall allow such period as may be reasonable with reference to the distance of the party.

S. 7. XV. 45.

It may be doubtful whether M. can take up under S. 4. IV. 40. a petition of a man's house having been taken possession of by another person in his absence; but if M. was apprehensive of a breach of the peace, he might look upon the petition as "certifying" him of its probability, and proceed to determine the question of possession under Sec. 2. It would only be necessary for him to record an order on the face of the petition that it was *not* cognizable under Sec. 4. and to hold a separate proceeding, referring to the contents of that petition as the ground of his being "*certified*" that a breach of the peace was to be apprehended; and calling upon both parties for "a written statement of their respective claims" under Sec. 2.

N. A. Septr. 4, '47.

This is a very convenient construction, and will, when known, be the common handle for evading the stringent rules as to *forcible* dispossession—every dispute in this country is more or less "likely to induce a breach of the peace," so that the M. under the advice here given, would only have to throw out the petition of *forcible* dispossession under Sec. 4. and investigate the simple fact of possession under Sec. 2.

Cases of opening windows looking into a neighbour's Zunana, and such like, are *not* cognizable under IV. 40. They do not bring the parties into actual contact, and do not therefore render a breach of the peace a probable event; a marked distinction which it is well to observe.

N. A. Septr. 4, '47.

The M. A. do not prohibit altogether the imposition of wholesome restrictions on the conduct of such unpopular animals as Swine; but they object to the comprehensive measure of shutting them altogether out of a town.

N. A. Octr. 2, '47.

Sec. 5. IV. 40. If the subject of dispute be NEWLY FORMED LAND, of which no one has ever had possession, M. will award possession to the party to whom the right of possession belongs according to Law, or Custom; and shall maintain that party in possession until the right to possession be determined by a competent Court. See "*Alluvion.*"

Sec. 6. IV. 40. If a dispute arises concerning the RIGHT OF USE of any Land or Water, M. *may* enquire into the matter; and if it shall appear to him that the subject of dispute was open to the use of the public, or of any person, or of any class of persons, M. *may* order that possession thereof shall not be taken, or retained, by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming possession shall obtain the decision of a competent Court, adjudging him to be entitled to such exclusive possession.

Provided, that M. shall not pass any such order, unless the right of use have been ordinarily exercised within three months; or, where the right of use only exists at particular seasons, unless such right has been exercised without discontinuance before the dispossession of which complaint is made.

POSSESSION of LANDS.

Sec. 7. IV. 40. Any person opposing by force the execution of an order for possession, or use, given under this Act ; or refusing obedience, or knowingly contravening the same, shall, together with all persons aiding and abetting, be liable to 6 months, or to fine of 200 Rs. commutable to 6 months, or to both imprisonment *and* fine.

Sec. 9. In cases under this Act, M. is authorized, with the consent of all the parties, to refer the matter in dispute, so far as it is cognizable under this Act, to arbitrators for decision ; whose award shall be executed as if it were the award of M.

Sec. 10. Nothing contained in this Act, shall affect the legal exercise of any right of attachment, or seizure, vested by law in any parties. See under Sec. 4.

Where, in a IV. 40. suit an auction purchaser pleads that he is only exercising his legal right of attachment, it is the duty of M. under Sec. 10. to satisfy himself whether the contested tenure is of that description which is protected by law ; if it is *not* the purchaser is not obliged to apply to any court for the enforcement of his rights.

Con. 1312. Novr. 26, '41.

In disputes between Zumeendars and Kitkinadars, not for the possession of defined portions of land, but for the right of management and collection, the Zumeendar should be retained in the management of his estate, and the party desirous of ousting him from his undoubted privileges, referred to the Civil Courts. The Zumeendar possesses, under certain restrictions, the power of distraint and ejectment ; and the question whether he has justly exercised his power, is not within M.'s jurisdiction.

Con. 1333. April 15, '42.

In a dispute between a Zumeendar, and the Mortgagee of an orchard in his estate the M. did right to uphold the proved possession of the Mortgagee ; and the order of S. J. directing him to uphold Zumeendar, and refer Mortgagee to Civil Court, was upset.

Con. 1366. Decr. 2, '42.

POST OFFICE.

Post Office.—Act XVII. 37.

Sec. 2. None but Govt. to convey letters.

S. 5. Any one knowingly conveying any letter by post for hire, or receiving any letter or packet of letters, in order to such conveyance, or delivering any letter knowing the same to have been so conveyed, or is accessary to above ;—fine of 50 Rs. each letter.

S. 9. 10.—Fine of Rs. 50 for sending any writing with Lawpapers and Newspapers.

S. 21. Person need not pay postage of bearing letter, unless he open it.

S. 22. Sender will have to pay return postage.

S. 24. If any one refuse to pay postage which he is bound to pay for any letter or packet, all bearing letters to be withheld from him.

S. 31. Govt. not responsible for loss, or damage.

S. 32. The above Fines to be levied by M. the Postmaster being prosecutor.

S. 33. Any one in Post office employ who shall fraudulently appropriate any letter, or packet, entrusted to him, or any thing contained in it, or shall open packet with fraudulent intention ;—7 years with, or without labour, and also to fine.

S. 34.—Whoever being entrusted to receive postage, shall fraudulently appropriate it ;—2 years with, or without labour, from M. and also liable to fine.

POST OFFICE.

S. 35.—Ditto ditto for altering direction, or mark.

S. 36.—Ditto ditto for fraudulently or incorrectly preparing, altering, secreting, or destroying any document.

S. 37.—Ditto ditto for any one putting letter in G. P. O. Wallet.

S. 38.—Tola equal to Comp.'s Rupees, that is, 180 grains Troy.

The mere act of writing a letter sent by private post, does not necessarily subject the writer of it to punishment as an accessary to its conveyance; but if he delivers the letter to be so conveyed, he is an accessary before the fact.

Con. 1263. Novr. 22, '39.

The Postmaster *must* prosecute; and the *full fine* under Secs. 9. 10. *must* be imposed. M. has no power of mitigation.

Con. 1204. April 1, '39.

False superscription on papers purporting to be accounts, law-papers, or documents; Fine of 50 Rs. leviable by distress, commutable if unrealized, to 2 months in Civil Jail.

Secs. 5. 8. XX. 38.

The sending any writing with such papers; ditto ditto.

S. 6. 7. XX. 38.

Post office Fines, if not realized by distress, commutable to 2 months.

S. 8. XX. 38.

Neglect of commanders of Vessels, in taking, or delivering letters; Rs. 1000.

XVII. 37.

Postmasters not to receive banghy parcels unless sewed up, sealed, and tied with tape, so as to be able to bear the friction and rough usage to which they will be subjected in the Mail conveyance.

C. 70. Feby. 28, '40.

Secs. 33. and 35. XVII. 37. not applicable to European British Subjects.

Con. 1296. May 21, '41.

Magt. and Collr. should not mind a little trouble and responsibility, in forwarding letters received from the Post office, through the district dak.

G. O. April 30, '44.

Mule Train at Kalka—rules regarding.

G. O. Octr. 17, '46.

Instances having occurred of officers having franked, as on the public service, letters to Postmasters and Steam Agents about their private letters and parcels; if, in future, any public officers shall be so guilty, the penalty of S. 5. XX. 38. will be strictly enforced.

POST OFFICE.

POST OFFICE. All references and appeals to the Postmaster General will be forwarded free of postage, if superscribed "On Post office service," and signed with full signature of writer.

P. M. G. Octr. 30, '47.

Postmaster to furnish on the back of his monthly cash accounts a report on his Inefft. Balance, in annexed form, with detail of unadjusted items, and the measures taken to promote their adjustment.

Acct. April 30, '47.

When Postmaster applies to Collr. for draft for the purpose of making remittances to other Postmasters, he will invariably state the specific purpose for which such bills are required, with names of travellers and other particulars.

When several amounts are to be remitted to the same Postmaster, the application should be made for one bill for the aggregate sum, and the purposes detailed.

Collr. is to refuse to give draft when the necessary detail is not afforded; and will not give more than one bill on the same Treasury on the same date.

On such bills he will be careful to insert the particular purpose for which the bill is required, either in the body, or on the back of the bill.

Acct. July 24, '47.

When Daks are laid for Military Officers ordered to proceed dak at the public expense, Postmaster should immediately transmit bills for the whole distance in duplicate to the M. A. G. for audit, with declaration on honor at the foot of each bill, and copy of the general, or station, order under which the dak was laid. After audit, amount to be debited under Milty. Departt. Bengal Presidency.

Acct. Novr. 7, '48. *Manual.* 68.

Strict rules for the Postmaster to pay in all his collections to Collr. whenever they amount to 100 Rs., and remittances of each month to be supported by receipts dated the same month, by sending in all cash in hand on the last day of the month.

The practice of crediting collections of Postage, except for undelivered letters, and, holding such collections in J. B. on account of their non-realization within the month arising from allowing credit to parties, must be immediately discontinued. *No credit to parties is allowable,* and no collections ought to be entered as realized when the fact is otherwise.

Postmasters will be held personally answerable, and Acct. will at once report to P. M. G. any disobedience he may observe.

Acct. Decr. 7, '48.

S. 2. It will not be necessary for Collr. to follow the forms which the P. M. has to observe in making remittances to the Treasury. It will suffice to attest his remittance books which will accompany the remittance, under the proper column, when the Cash, or Draft, is received; but Collr. should open a Remittance book in the subjoined form, for funds which he may supply to P. M. for his authorized expenditure, and obtain a general receipt at the close of each month.

S. 3. The debits and credits of transactions with P. M. should be shewn in aggregate

in the Treasury accounts, and should correspond with the general receipts interchanged at the close of the month. POST OFFICE.

Acct. March 26, '49.

RULES FOR P. O. ACCOUNTS.

1. Remittances to Treasury to be made only *once* a day.
2. Just before the close of Treasury.
3. Collections to be remitted as soon as they amount to 100 Rs. under No. 243. Decr. 7, '48.
4. Remittance book to be sent to Collr. along with the money.

One general Receipt, with specification of dates and amounts, with signature of Collr. and Treasurer, to be received in duplicate at the end of each month, as a voucher for P. M.'s account current, where the amount should correspond with the receipt, which will form an abstract of the entries in the Remittance book.

Collr. will in like manner take a General Receipt for Advances, as a voucher for his Treasury Accounts.

Manual. 67. Acct. March 26, '49.

District Dak.—Letters to be received and distributed at all Police Offices—½ anna district postage to be prepaid in addition to any post office postage.

These ½ annas to be kept in deposit by Collr., and disbursed with concurrence of P. M. G. in the way best calculated to improve the district dak.

Register to be closed each month, and forwarded to Postmaster for inspection and verification.

Post office Postage collected by M. in the mofussil, to be despatched to Postmaster every Saturday.

G. O. April 2, '46.

The district dak postage to be held in deposit as "District Dak" under "Revenue Deposits," exhibiting receipts and disbursements, with Memo. of surplus appended, exactly as in 1 per cent. fund. The proper voucher to support charges, is a detailed statement in English.

Accountt. April 13, '46.

Franking for Societies put a stop to, except on special occasions.

G. O. Decr. 22, '42.

Police Darogahs to send in Mooosiff's Records in charge of a burcundauze, indenting on M. for expence of conveyance. This item will be passed in M.'s monthly contingent bill.

C. 162. April 23, '44.

PRINTING.—Rules regarding, Act XI. 35. PRINTING.

Tin boxes from Lithographic Press, to be made over to Magazine, or sold for Govt.

Augt. 13, '42.

It is imperative on M. to sentence person convicted under XI. 35. to imprisonment in addition to Fine.

Con. 1325. Feby. 11, '42.

See "Copy right." XX. 47.

PRECEDENCE.

PRECEDENCE.—Civilian of 35 years standing, to rank with Major-Generals from date of commission.

20 years, with Colonels and Archdeacons.
12 years, with Lieutenant-Colonels.
8 years, with Majors.
4 years, with Captains.

Civilians under 4 years from date of rank assigned on arrival, to rank with Subalterns according to date of commission.

All other persons not mentioned in the table, to take rank according to general usage; and ladies to take place according to rank of husband, with exception of ladies having precedence in England.

G. O. Octr. 27, '41.

PRISONERS.

PRISONERS.—See "Jail," "Irons."

I. General Rules.—1, Under examination..... 326
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1st.—GENERAL RULES.

1. *Under examination.* 2. *Sent elsewhere.* 3. *Labour.* 4. *Escape.* 5. *Release.* 6. *Miscellaneous.*

When exceeding 50 under examination at the end of the month, M. to give explanation.

C. 144. Jany. 25, '15.

Escaping from custody whilst under examination;—6 months. S. 5. XII. 18. Labour commutable to fine.

Con. 1215. Augt. 1, '39.

Charged with heinous offence, not to be sent under a single guard.

C. 120. Octr. 1, '42.

State Prisoners, rules regarding.

III. 18.

Not to be kept at Nazir's house.

C. 47. Feby. 19, '30. See "Magistrate III. 11. Police."

I.—2. SENT ELSEWHERE.

Rolls of prisoners sent to Allipoor to be carefully made out in Hindostanee, Persian, and English, and the guards, on relieving each other, carefully to compare them with

the convicts. (It is as well to note the clothes and other articles sent with prisoner.) PRISONERS.

C. 20. March 8, '39.

M. to inform Allipoor M. of any Convict peculiarly dangerous.

C. 95. Augt. 1, '11.

Convict sentenced to Allipoor, not to be worked out on the roads, pending order of removal.

C. 117. Augt. 24, '32.

With reference to Notification of Septr. 12, '45. M. to send with convicts despatched to river stations for Allipoor, a Descriptive Roll, and copy of Warrant; and River M. not to despatch convict until he has received the above papers.

G. O. Jany. 8, '46. Form of Roll. G. O. Octr. 15, '46. Gazette, Octr. 20, '46.

M. to direct letters and statements regarding removal of convicts sentenced to transportation for life, or banishment from one station to another, direct to Govt.

G. O. June 28, '45.

Single prisoners not to be sent, but in gangs of 10 or 12, so as not to waste guards.

Inspector, Septr. 27, '49.

When absolutely necessary, prisoner may be sent to give evidence in another district, M. A. being informed of his going and return.

July 31, '40.

When prisoner is sent from one district to another, or into the Mofussil for release, a written despatch unsealed should go with him, giving his name and destination, and Darogah shall forward them by burcundauze from Thanna to Thanna, noting the particulars in his Diary.

C. 15. S. 19. XX. 17.

When proceeding by water, convicts should be strictly detained in the boat, and not be permitted to land.

C. 161. Feby. 14, '16.

The accounts of gangs of prisoners employed in other districts, belong to the district in which they are at work.

Inspector, 24th Decr. 1847.

I.—3. Labour—see "Labour."

Prisoners confined in default of giving security, may be worked; but should not be sent far from the Sudder Station, and never be sent beyond the boundary of the district.

C. 72. Augt. 2, '10. Con. 160. May 20, '14.

M. not competent to permit convicts to work on the roads, who have not been sentenced to labour.

Con. 1005. April 8, '36.

PRISONERS.

PRISONERS. Convict sentenced to Allipoor, not to be worked out on the roads, pending order of removal.

C. 117. Augt. 24, '32.

Convicts shall not be employed, except upon very urgent occasions, upon Sundays; and M. has discretion to authorize an intermission of labour at the principal Hindoo and Mahomedan festivals, as far as may enable the convicts to perform their religious ceremonies respectively; but only so far as may be necessary for this purpose.

C. 183. April 30, '17.

Prisoners in confinement for Misdemeanors, should be employed privately inside the Jail.

C. 238. Augt. 18, '20. C. 235. May. 17, '22.

For Rules as to mode of keeping *Accounts* of Prison Labour, see "Jail."

M. may report to Govt. when a convict seems too grand to work on the roads; and S. J. exempt such persons from labour in their warrants.

C. 8. Augt. 10, 1796. C. 44. March 28, '09.

"Infirm Gang" to be formed of the aged and infirm, the slightly wounded and ulcerated, and the recently discharged convalescents, who should have light work near the Jail. A Register should be kept of such prisoners, and none placed on, or removed from, this Gang, without special order and signature of M., or under directions of Surgeon.

Inspector, C. 5. July 1, '47.

Prisoners never to be permitted to work for private individuals. Such an abuse to be put a stop to.

Court of Directors, Septr. 8, '47. Inspector, Augt. 28, '48.

I.—4. ESCAPE, see "Escape."

I.—5. *Release.*

Prisoners under confinement at a different Jail from the place where they were sentenced, to be returned some days previous to the date of release, with diet money for the road.

C. 66. March 6, '10.

S. J. or Supts. of Police, not competent to authorise the release of a convict, on security or otherwise, for the purpose of apprehending another prisoner.

Con. 1013. June 17, '36. 1240. Augt. 30, '39.

Civil Court is not competent to require M. to deliver up a prisoner against whom a Civil process had been taken out while yet in confinement; but the process should issue in the usual manner, on the prisoner's release.

Con. 1276. March 20, '40.

PRISONERS.

M. is not competent under any circumstances, to release prisoners before the expiry of their sentence. Con. 841. Octr. 11, '33. See rules for release of blind and infirm prisoners under heading " No. IV. Diseased and Infirm."

Should any convict, from his uniform good behaviour, or from his preventing the escape of other prisoners, or from rendering any public service, appear to M. to deserve a remission of his sentence, he shall transmit a report, with copy of sentence, for orders.

C. 1. S. 10. XIV. 16.

In cases of short imprisonment adjudged by M. or his subordinates, wherein the object would be defeated by the delay of reference, M. is at liberty to discharge the prisoner, recording his reasons, to be submitted when required to S. J.

C. 2. S. 10. XIV. 16.

On the release of any Convict who may have been confined more than 6 months, M. is authorized to pay him not exceeding 5 rupees.

S. 25. IX. 1793. S. 25. VI. 03.

Whenever a sentence may be mitigated, the name of Convict should be immediately struck of from the Register of the year, in which his original sentence would have terminated, and be entered in the year in which the mitigated sentence will expire. M. should also furnish him with an amended certificate.

C. 21. May 30, '39.

Suicide of convict to be reported to S. J. with the enquiries made.

C. 157. Decr. 7, '15.

Prisoners should always be released in presence of Magisterial officer, after inspection and signature of Register.

Inspector. Septr. 27, '49.

I.—6. *Miscellaneous.*

Prisoners should be registered under the year in which their sentences *expire*, so that a glance over the register at the end of each year will show whether any have been by neglect confined beyond their term.

C. 167. May 15, '35.

In continuance of the above, whenever a sentence may be mitigated, M. and S. J. will strike out in red ink the name of the prisoner from the Register of the year of the first sentence, with Memo. in Col. 7. and insert it in the year of mitigation. A new certificate to be given.

C. No. 21. March 30, '39.

Convict committed by Sudder J. M. if sentenced short of perpetual imprisonment, to be confined at J. M.'s station, if there be no danger to health, or custody.

C. 288. April 17, '24.

PRISONERS.

PRISONERS. No convict to have Hookah within Jail at night.

C. 258. June 28, '22.

Prisoners may petition on plain paper, in matters relating to their treatment in Jail, and the case in which they are confined.

Schedule B. No. 7. X. 29.

No convict to be employed out of the Jail under a single guard.

C. 18. Novr. 14, '98.

Prisoners to be employed so as to give them habits of industry, and meet in some degree, the expense of imprisonment. ½ produce of labour may be given them.

C. 252. April 27, '22.

Suicide of prisoner to be reported to S. J., with the enquiries made regarding it.

C. 157. Decr. 7, '15.

Duplicate copy of Contingent Bill, with copies of vouchers No. 2. and Surgeon's bill for Native Medicines, to be forwarded monthly to Inspector.

Inspector. C. 2. April 7, '45.

Circular regarding "REGISTER A OF ADMISSION," and "REGISTER B OF RELEASE."

Para 5. At the commencement of each year a new Register will be prepared, the names of the prisoners remaining in confinement at its close being first entered, each prisoner retaining the number originally assigned to him, while to fresh admissions, new numbers will be allotted in consecutive order from the highest number of the preceding year.

6. This number, with the last two figures of *Year of Admission*, will be impressed on one side of a wooden ticket 4 inches by 2, and the date of expiry of his sentence on the reverse. The ticket to be hung to the neck, or waist, of each prisoner. Thus for a prisoner sentenced to 10 years on Jany. 2nd, 1845, whose Register No. is 504; 504 45 on one side, and 2. I. 55. on the other. This Ticket is much better than the Sudder paper certificate. His number, in figures 3 inches long, should be marked on every article of clothing and bedding served out to a prisoner.

7. Each prisoner having a different number, his number at once identifies him, and reference to that Number in the Jail Register, will at once give all information respecting him without trouble, or delay.

9. Register B of Release is designed to prevent the unlawful confinement of any Prisoner beyond his term of sentence; and with this view, his sentence is to be entered under the month of the year *in which it will expire*. Each month of every year should have separate pages allotted to it; and the Perwannahs should be carefully arranged in monthly bundles, docketing them on receipt.

10. When several prisoners in a case are sentenced to different terms, those only will be included in the same perwannah, whose sentences will expire on the same day. Different dates must have different perwannahs, to be filed separately in the docketed bundle of the month to which they belong.

PRISONERS.

11. The sentences of all Courts to be entered in one and the same volume.

12. Prisoner sentenced to Death, or to imprisonment for Life, should be entered under the month of the year in which he is *sentenced*.

13. A prisoner banished to another Zillah should be transmitted with his Warrant, and copy of Descriptive Roll ; his name should appear under the month of the year in which his sentence will expire, in the Registers of both Zillahs, and a note be entered of the date of transmission and arrival respectively. The M. of the district to which the prisoner is banished will duly endorse, and return the warrant on its execution, to the M. of the district from which he was received. (This rule appears to me erroneous. The warrant ought to be endorsed as executed by the M. to whom it is addressed ; and the prisoner ought to be returned to his own district in good time for release there on the date specified in his warrant. Besides, on releasing dangerous prisoners, it is necessary for the M. to warn the Police that they are loose again, and to make arrangements with the Zumeendars and Chokeydars of their villages as to their future good conduct. By this new rule, none of this can be done. A prisoner will be released several hundred miles, perhaps, from his home, and be left to find his way back as he best may, by robbery and plunder on the road.)

14. Should Sentence of any prisoner be altered, a Memo. should be made in Col. 11. of original sentence in Register B, and a fresh entry made in the same Register under the new date of expiry.

15. Should a prisoner be *again* sentenced, the entry of the 2nd sentence will not be made in Register A, until the expiry of the 1st sentence, and re-admission of the prisoner upon such 2nd sentence.

16. If a prisoner dies, or escapes, Jailer will make Memo. on Perwannah, and in Remarks of A. and B. The Record Keeper will make a corresponding entry on the original warrant. These entries will be attested by M.'s signature, a proceeding of the occurrence will be filed with the Record of the case, and a copy be forwarded to S. J. for entry in his Register. M. will retain warrants of absconding Prisoners until they be recaptured, and have undergone their original sentence.

17. The Registration of all Transfers, Escapes, and Deaths, will be also carefully made at the time of occurrence in the Registers 5, 8, and 12, respectively prescribed.

18. On the recapture of an absconded prisoner under sentence of Labour, he shall at once return to, and be employed with, hard labour, in fulfilment of his primary sentence receiving the number first assigned to him ; he should not be placed in the Hâwalat, or Hâjut Tujvees, pending enquiry into, or a final order on, this or any other offence ; and the remaining portion of his primary sentence shall be calculated from date of recapture, and not from date of 2nd sentence.

19. Fresh entry of date of expiry to be made in Register B, after cancelling original entry.

20. Nazir to keep a new form No. 1. " Register of Sentences," in which every sentence by every Court will be entered by Nazir at the time of issue. This Register will always lie on the table and each entry be attested by the Magisterial authority issuing, or passing, such sentence. Before the Court closes, the order will be transcribed on the form of Perwannah, signed and sealed by the Magisterial authority, countersigned by Serishtadar and Nazir, with date of issue, and forthwith transmitted with the prisoner to the Jail.

This simple record of all Sentences issued by M. and his Subordinates, will afford an effectual check to any irregularity, or omission of entry, by the Jail Officers.

PRISONERS.

PRISONERS.

21. It will also enable the Record Keeper to draw up the statements without reference to the records, and will save the trouble of copying out every perwannah before issue.

22. Every prisoner under examination before M. or S. J. will be entered in the Jail "Register No. 2. of prisoners under examination," from which he will not be struck off until final order of sentence, or acquittal, is received by the Jailer.

23. Jailer not to receive Prisoner without perwannah. He will then strike his name from Register No. 2, and enter it in Registers A. and B. The Record Keeper will retain in his charge the English Warrants of the Sessions Judge, filing them in monthly bundles according to date of release, as prescribed for perwannahs, and *not* with the Misl of the case.

24. In the case of a sentence adjudging fine and imprisonment with, or without labour, or imprisonment with labour commutable to a fine, the execution of such portion of the sentence shall be duly endorsed and certified at the time on the warrant, and perwannah; but M. should retain the warrant, and Jailer the perwannah, until completely executed.

25. No second sentence shall be entered on the back of any perwannah, but a fresh perwannah shall be issued for every sentence.

26. A Memo. of any *Summary* punishment should be made and signed *before infliction*, on the back of the original perwannah under which the prisoner may be confined as well as entered in the Register No. 9 of Prison Offences and Punishments.—No fresh perwannah is necessary to carry out such summary sentence.

27. Whenever M. may be obliged to postpone the execution of a warrant of capital punishment beyond the period fixed, he must return such warrant to S. J. with a report of the circumstances of the case, and wait the receipt of a second warrant, or an order of S. J. endorsed upon the first, fixing a date for carrying the postponed sentence into effect.

28. Whenever the sentence of any prisoner may expire, it will be the duty of the Jailer to produce him, together with his warrant, and Perwannah, and the Registers A. B. with any report that may be necessary, for the orders of releasing Officer, who besides signing the order for release on the Jailer's report on the back of the perwannah will likewise affix his initials, and the date of signature, opposite the prisoner's name in each Register. If the Register be properly kept up, no previous reference to the Misl, Record Keeper, or Nazir, will be required.

29. Should a prisoner brought up for release, be under sentence for a further term, his first warrant, and perwannah of sentence, will be duly endorsed, and returned as executed, and he will be re-committed to Jail on the fresh perwannah, and re-entered in Registers A. and B.

30. All warrants to be returned to S. J. immediately on the death, or release, of the prisoner.

31. S. J. to see that these rules are regularly conformed to, and that the register of his own office, as prescribed by C. 167. May 15th, 1835, is correctly and regularly kept up, and the entries prescribed duly recorded.

33. It will ensure a greater degree of correctness and regularity, if to *one* Officer be assigned the special duty of signing and checking the Registers of admission and Release, of giving the prisoner a lithographed certificate of the expiry of his sentence (in which shall be entered also a list of the property restored to him); of paying the

prisoner such amount of diet money as may be deemed necessary to support him on his road home at the rate of ¼ an anna, or 6 pie per day ; and of issuing the necessary passes for removing the prisoner under safe conduct, if necessary, to his own village. (This confirms my remarks under Para. 13.)

PRISONERS.

Inspector. No. 3. May 20, 1845.

The separate voucher No. 2, of Jail Contingent Expenses to be discontinued. Contingent Bills to be forwarded according to form in triplicate by the 10th of each month. Only strictly *Jail* charges to be included. Care to be taken that the proceeds of Prison Labour are regularly credited under that head. The amount of any item charged in the accounts, must *bonâ fide* be expended only on that head, and no part carried to any *Toufeer* fund.

No repairs or alterations, whitewashing, &c. &c. to be made to Jail buildings without previous sanction of the Inspector, by whom a bill specifying the amount and estimated cost of Labour and Materials and amount of Prison Labour, will be passed.

Inspector. No. 4. Jany. 27, '47.

The Rules for BENGAL appear to be different, and are here copied from Mr. SKIPWITH's valuable book.

M., Joint M., or other Officers in direct charge of Jails, will be held solely responsible for their good management to Govt.

Para. 2. S. J. will visit the Jails monthly, to enquire into their condition, and that of their inmates, and will submit to Govt. when forwarding the periodical Statements of M., or immediately in urgent cases, his own remarks on the condition of the Jails, for such orders either in regard to individual cases, or the general conduct of the Jail duties, as may appear to be required.

3. All periodical Statements, connected with the Jail, shall be transmitted through S. J. to Govt. ; and all orders relative to the management of the Jails shall be transmitted to M. through the same channel.

5. All Statements of prisoners sentenced to imprisonment in banishment, or in transportation, or for life in the Allipoor Jail, will be forwarded by M. for the orders of Govt.

6. Abstracts, in a tabular form, of sentences passed by the Sudder Nizamut, or S. J. will be forwarded to Govt. by the Court, and the S. J. respectively. Such Abstracts will be forwarded by N. A. as soon after the date of sentence as may be practicable ; but Abstracts of sentences of banishment, passed by S. J. shall not be transmitted by them until after the expiration of three months from the date of sentence, in order to allow of that period for appeal.

7. Statements of prisoners recommended for release, on account of meritorious conduct, or of severe bodily infirmity, will be forwarded to Govt. by M. through S. J.

8. Orders of M. for the dismissal of officers of the Jail Establishment shall be final. It will rest with S. J., as directed in C. 7. S. 7. XVII. 16. to report to Govt. any cases in which M. may seem to abuse this authority.

9. The Reports regarding the escape of Prisoners, to the S. J. and Supt. of Police, required from M. by Clauses 1. 2. S. 14. XVII. 16. shall be forwarded as heretofore ; but the power of sanctioning rewards for the re-apprehension of escaped prisoners, will now be transferred from Supt. of Police to M. who can proclaim rewards in such cases

PRISONERS. to the extent of 50 Rupees. In cases where it may be deemed expedient to offer a higher reward than the above, the M. will report the circumstances direct to Govt. for sanction. In cases, however, in which heinous offenders may have escaped, or on occasions of emergency, M. shall exercise a discretion, as heretofore, in offering a reward not exceeding 100 Rs. reporting for the confirmation of Govt.

The duty of inspecting Allipoor Jail transferred to S. J. of 24-Pergunnahs.

C. 1072. Octr. 10, '44.

Blankets and clothing to be furnished to all convicts, and prisoners under trial, or sentenced to short periods; but shall be taken away from the latter on their release. The Jail clothing should invariably be issued on, or before the 15th October.

C. 269. July 18, '16. C. 209. Octr. 30, '11. C. 207. Octr. 4, '36.

When Convicts work for Executive Officer, he must pay for their labour at the rate of two-thirds of the ordinary hire of a labourer.

Except under special sanction, prisoners shall only be employed on such works as are sufficiently near the Jail to admit of their returning to it at night.

C. 189. Jany. 31, '47.

Convicts shall not be employed in pulling the Punkahs in the Public Offices, nor in clearing jungle from private premises, or in any kinds of agriculture, or horticulture. (This rule fortunately does not extend to N. W. P. where the cutcherry punkahs are always pulled by convicts. Every Jail ought to have its own Garden for the supply of Vegetables. The employment of Convicts in *private* work, is of course every where prohibited.)

C. 1328. Augt. 6, '45. C. Novr. 17, '48.

Convicts ought to be employed in manufacturing native paper.

C. 114. July 11, '42.

Also in grinding their own corn.

C. 78.-Decr. 26, '40.

Jail Darogah entitled to a commission of 35 per cent. on the profits of Manufactures carried on in Jail. (This is unnecessary if M. looks after his Jail properly himself.)

C. 1058. May 20, '46.

The hire of convict labour not to be included as profit, or commission allowed on it.

C. 1376. July 26, '47.

Civil Auditor will pass contingent Bills of M. for purchase of materials and implements to the extent of 150 Rs. a month, provided Manufacture has been sanctioned by Govt., and is remunerative, for which M. is personally responsible.

C. 944. Septr. 9, '44.

Rations to be given according to annexed Diet Table, and two daily meals allowed. (The quantity is too great, and no Native requires 2 cooked meals.)

C. 145. Octr. 6, '44.

PRISONERS.

Mustard oil for cooking may, if the natives are accustomed to it, be substituted for Ghee.

C. 2039. Septr. 26, '44.

The following Rules are also in force.

Every Prisoner in Criminal Jail to be provided daily with ration, and no money to be paid to the prisoners on any account whatever.

Money is not on any account to be carried into the Jail.

No Bartering to be allowed. The Prisoners only to be allowed what is laid down in the Form. Doctor to approve Musters, which should be sealed up in bottles, or jars, and the contract reduced to writing.

All convicts to be formed into Messes of 20 men, with one cook.

Lists of prisoners who ought to mess, but do not, to be submitted quarterly to Govt., with column of remarks for special cause of exemption.

Cooks to draw water, clean the wards, wash the cooking utensils, draw the rations, and prepare for cooking: after this they will weed the Jail.

M. will get iron pots proportioned to the Mess.

Doctor to see the convicts eating once a week, his visit being irregular, and unannounced.

He will keep a public Register of his visits and remarks, which S. J. will see kept up.

Non-labouring Convicts to have 6¾ chittacks for breakfast, and 9¾ for dinner, total 16½ chittacks. Labouring Convicts to have 7¾ for breakfast, and 14¾ for dinner, total 22½ chittacks during six days of the week, but to have non-labouring allowance on Sundays. They may have Tobacco, and the Cooks may have 1½ seers of Firewood if they require it. (30 seers a day.)

Each Convict to be allowed 1 pice for washing and shaving. (Why not wash and shave themselves ?)

Such washing and shaving to be done by contract.

Women need not mess.

C. 89. July 9, '41. C. 97. Decr. 17, '41.

Prisoners whose labour is commutable to fine, need not mess.

C. 2359. Novr. 30, '46.

No Convict to be employed outside the Jail under a single guard.

C. 18. Novr. 14, 1798.

Patna, Bhagulpoor, Rajshaye, Dacca, and Backergunge, to be Receiving Jails for all Prisoners sentenced to transportation, or Allipoor.

M. to forward Convicts to Receiving Jail at such time, and in such numbers as may be convenient, accompanied by their warrants and descriptive rolls.

From Receiving Jails, Monghyr, and Moorshedabad, convicts to be sent on Govt. Steamers.

M. to have the Convicts and Guards, with provisions for the trip, all ready, so that no delay may occur in their embarkation.

G. C. O. 1240. June 3, '46.

PRISONERS.

PRISONERS. Convicts incapable of, or exempted from, bodily labour, not to be sent to Allipoor.
C. 88. May 2, '11.

Jail Darogah to remind M. of Convicts sentenced to banishment, for whose transfer no orders may be received within 4 months from date of sentence.
G. C. O. 2014. Septr. 24, '45.

Certificates of period of Imprisonment to be given to Prisoners.
C. 292. May 14, '24. C. 294. 295. June 18, '24.

DIET. II. DIET.—The *old* allowance was,

Rations, 1 seer of rice, 1½ seer wood, 1 kucha of tobacco. On written request of Surgeon, M. may give ¼ seer more, reporting the same. Meat, or fish, twice. Dal twice. Vegetables thrice a week.

No money, or bartering, allowed.

Medical Officer to approve of musters of food, to be sealed up in bottles, or jars, and contract reduced to writing.

All prisoners in Criminal Jails, except those under examination, to be formed into messes of 20 men, with a Cook.

List of prisoners who ought, but do not mess, to be submitted quarterly to N. A. with column of brief remarks of cause of exemption.

In the morning, when prisoners go to work, cooks to draw water, clean the wards, wash cooking utensils, receive rations, &c. &c. and then weed the Jail!!!

Surgeon to see prisoners eating at least once a week at odd times, keeping a register of visits and remarks, which S. J. will see kept up.

All washing and shaving to be performed by contract, at 1 pice per prisoner.
C. 89. July 9, '41. C. 97. Decr. 17, '41.

Two *cooked* meals to be given daily!!! C. 139. June 23, '43. Lower Provinces.

Rations may be increased to 1 seer, with concurrence of Doctor, without reporting to N. A. C. 107. May 4, '42. But less may well be given at the discretion of M. and Doctor; and the scale of diet within that limit should be varied according to the age, sex, and amount of labour.
C. 168. May 21, '44.

Sound discretion to be exercised in allowing cessation of labour in the heat of the day.

(In the N. W. P. the whole scale of Rations has been greatly reduced; too much so, I think; as prisoners must be well fed to undergo hard labour. When reduced too low, the constitution loses its tone, and soon sinks under attacks of sickness. I do not think ghee is necessary. Tobacco should be given as medicine when considered necessary; but not as a luxury.)

In drawing up Dieting Account, M. should state in Contingent Bill the number of Prisoners receiving 1*st* rate, or 1 seer; 2*nd* rate, or ¾ seer; 3*rd* rate, or 10 chittacks; 4*th* rate, or ½ seer. He should also state the quantity of Fuel allowed daily to each prisoner, and whether varying with the rate of diet, or the same quantity to every Prisoner alike; whether messing, or cooking singly.
Inspector. C. 2. April 7, '45.

PRISONERS.

Native Doctor to make *Daily Entries* of Hospital and Extra Diet, to be submitted daily to the Surgeon. PRISONERS. DIET.

Inspector. Decr. 5, '46.

The following scale of Dietary fixed, which the Inspector's experience has proved to be ample, as well as sufficiently good and nutritious.

Labouring Prisoner, 10 chittacks of Ottah, or 8 of Rice; 2 of Dal; 6 anna piece weight of Salt; 1 pepper; and 6 to 8 chittacks of firewood. Twice a week 4 chittacks of Vegetables instead of dal, and 4 anna piece weight of oil. Ghee *must be discontinued.*

Prisoners under examination; Non-labouring; Women; and Boys, } 8 chittacks of Ottah, or 7 of Rice: 2 of Dal, &c. &c. as above.

Four rates of Hospital Diet, 10, 8, 6, or 4 chittacks of Ottah; 2 of Dal, &c. &c as above.

Only 6 chittacks of Firewood should be allowed to each prisoner messing, 8 chittacks to prisoners cooking singly. (The Inspector prefers greatly the Messing System, but will not compel any M. to adopt it against his own judgment. April 5, '47.)

Rice, or other grain, may be substituted at the discretion of M. and Surgeon.

The several kinds of Dal, Oorud, and Moong to be supplied every alternate week.

Red Wheat to be used, with 5 seers of Barley to 35 of Wheat. The Ottah should be carefully ground, and freed from bran in the proportion of 1½ seer in every 40 seers of Ottah.

With due economy the diet of a prisoner should not cost more than 6 pie per day.

The Civil Surgeon may prescribe any *extra* items of Hospital diet, to be supplied by Native Doctor, and the daily expenditure entered in Register No. 34.

The number of prisoners receiving each rate of diet, or under stoppages, to be entered daily in No. 34, furnishing the Jailer every morning with a Memo. of the total quantity of Prison rations required.

Any alteration proposed in the Dietary of the Jail will only be made by the concurrent voice of M. and Surgeon, the former reporting the same to Inspector, with copies of any correspondence which may have passed on the subject.

Inspector. C. 5. July 1, '47.

Govt. not to be charged the estimated cost of Prison Labor for grinding corn.

If Rations are supplied at Bazaar rates by a salaried Bunya, M. may charge the same, with expense of carriage, at the foot of voucher No. 2, in addition to the prime cost.

Inspector. C. 14. May 10, '48.

III. Dress.—The general introduction of a distinctive prison dress recommended. DRESS.

C. 225. Feby. 22, '43.

Prisoners to be made to wear leather gaiters to prevent ulceration. These can best be made strong and good in the Jail by the prisoners.

Inspr. Septr. 27, '49. C. 25. March 9, '32.

The former plan of half yearly distribution of clothing abrogated. M. will in future

PRISONERS. DRESS.

only allow each prisoner to have in his possession clothing and cooking utensils as follows, 2 Dhotees, 1 Mirzaac, 1 Ungoucha, 1 blanket, and a tât puttee bedding 6 feet by 2. In winter a blanket coat, and additional blanket. Extra beddings and blankets marked H, to be supplied to the Hospital. Cooking vessels, 1 Butlohee, 1 Thalee, 1 Lotah, 1 Kutôra, 1 Tawa; and no vessels, except for Messes, to be provided by Govt. Fresh clothing to be furnished only from time to time to such prisoners as, on due inspection, actually require it, and whose remaining term of imprisonment on that date exceeds 6 months. (If prisoners "actually require clothing," are they to be kept naked for the last 6 months of their sentence?)

The winter blanket-coat and blanket served out on 20th September, will be taken back at the end of the cold weather, and carefully stored for another season.

On admission of Prisoner into Jail, a detail of his personal property should be entered on the reverse of his perwannah, and any thing he may have in excess of Jail rules taken from him, and entered in Register 11 of Prisoner's Property, to be sold on his account. Any property subsequently discovered upon him will be forfeited, and given to the finder.

Every criminal prisoner to be close *shaved* every fortnight, and beard and moustaches close clipped; but M. may exempt on a written order any prisoner to whom such proceeding would be justly offensive or degrading.

Whatever clothes, or utensils, prisoners may leave in the Jail wards on going out to work should be rolled up in their tât beddings and placed on *machâns*, or on racks in a separate building erected for the purpose.

Inspector. C. 5. July 1, '47.

The old worn-out blankets to be made into round pads for the head, to enable the prisoners to carry loads, without wearing out their clothes.

Inspector. Septr. 27, '49.

There should be a gang of tailor prisoners to mend the clothes, and make the Jail dresses.

DISEASED and INFIRM.

IV. Diseased and Infirm.—Prisoners blind, or from other cause considered fit objects of mercy; form of report. Surgeon's declaration necessary; and the opinion of M. as to the circumstances of the case, and the general conduct and character of the prisoner.

C. 218. Jany. 6, '37.

In applications for the release of blind prisoners, the Surgeon to record his opinion as to the origin of the calamity, and to state distinctly whether from the appearance and nature of the malady, there is any reason to suspect that it has been designedly produced.

C. 219. Decr. 12, '45.

Surgeon to visit gangs in the interior once a month, and to draw 8 annas a mile travelling allowance.

G. O. April 21, '37.

PRISONERS.

Prisoners dying at more than 1 per cent. per mensem, Surgeon and M. to report the reason.

C. 187. Decr. 24, '35.

Infirm and aged prisoners not to be sent upon the Roads at a distance from Hospital.

G. O. May 24, '37. C. June 1, '37.

Insane Prisoners, see "Insane."

Bodies of prisoners dying in Jail, not to be removed without inquest by native surgeon, &c.

C. 26. June 21, '01.

The Surgeon is not obliged personally to examine corpses of prisoners; but when the Native Doctor, &c. &c. have the slightest doubt as to the death, the body should not be removed until examined by Surgeon himself.

C. 204. July 2, '18.

Applications for release of prisoners convicted of having committed crimes whilst labouring under insanity, to be invariably accompanied by a medical history of the prisoner's case, from the beginning to the end. Each Surgeon before leaving a district should put on record such a professional history, to be carried on by his successor.

C. 221. Decr. 13, '45.

Whenever it may appear to Govt. that a sentenced Prisoner is of unsound mind, it may order his removal to a Lunatic Asylum; and, when cured, can remand him back to prison.

S. 6. IV. 49.

The Hon'ble the Lieutenant-Governor has been pleased on the recommendation of the Court of Nizamut Adawlut, to modify the present Rules regarding the release of prisoners, on account of blindness, infirmity, or any other cause, and to issue the following Rules on the subject.

I. All applications for the release of blind or infirm Prisoners from Jails under the control of the Inspector of Prisons, must be made to him by Magistrates or other local Officers in charge.

II. The Inspector of Prisons is hereby authorised to release all Prisoners whose sentence of imprisonment does not exceed three years, and whose bodily infirmity has been certified.

III. The Inspector of Prisons will forward to the Court of Nizamut Adawlut, applications for the release of blind and infirm Prisoners, whose sentences exceed three years, but he is allowed to reject altogether such as may appear unworthy of consideration, or open to rejection by reason either of the enormity of the Convict's crime, the turbulence of his character, or other cause.

IV. The Court will as heretofore issue final orders regarding all blind and infirm Prisoners, whose sentence does not exceed five years, and will forward to Government

PRISONERS, DISEASED, and INFIRM.

cases in which such Prisoners, though sentenced to periods of imprisonment beyond five years, are deemed proper objects of mercy.

V. From districts which are under the Court, but not under the Inspector of Prisoners, applications must in all cases be submitted through the Sessions Judge, or other controlling authority, direct to the Nizamut Adawlut.

VI. Applications for the release of Prisoners on account of good conduct, or any other cause than bodily infirmity, must be made through the Inspector of Prisons, (or where his authority does not extend, through the controlling authority,) and the Nizamut Adawlut to the Government, with whom alone rests the power to order release in such cases.

G. O. June 6, '48.

The Inspector of Prisons to have the same power as Commr. and S. J. in sanctioning *Rewards* not exceeding Rs. 100 in each case, *to Guards and other public Officers* for good conduct on the occurrence of breaches of Jail discipline.

Applications for the offer of rewards exceeding Rs. 100 in each case, must be submitted for the sanction of Govt. through the Inspector, with a detail of circumstances.

Magistrates will in future forward such applications to Inspector.

G. O. Novr. 13, '48.

Jail return and Casualty Statement to be sent to Inspector as soon after the close of each month, as possible. The first 8 columns to be dated and signed on the 1st of each month, and sent to Surgeon for despatch.

Inspector. C. 1. April 7, '45.

Prisoners suffering from ulcers and wounds ought not to be allowed to crowd the Hospital. They can be treated as easily at the Jail, and should be furnished with light work. It is absolutely necessary that stringent measures should be taken to prevent the prisoners wounding themselves, and malingering in Hospital.

Inspector. June 10, '47, repealed 27th Septr. '49.

PUNISHMENTS.

V.—PUNISHMENTS.—Prisoner refusing to work; to be moderately flogged, and diet allowance reduced.

S. 5. 6. XIV. 16.

Prisoner guilty of disorderly conduct, riot, attempt to escape, abusing, or assaulting other prisoners,—30 bents, heavy fetters, neck-chains, and handcuffs. Also solitary Confinement.

S. 5. 6. XIV. 16. C. 1. Septr. 15, '37.

Corporal punishment can be inflicted on a Convict under labour in irons, only when such punishment may be absolutely necessary, at the moment, to quell a riot or disturbance among the prisoners, or in cases of violent resistance to the Jail officers, or any other refractory conduct on the part of a prisoner, such for instance, as a contumacious refusal to work, when the punishment may follow so immediately upon the

offence, as to be calculated to deter others. Breaking Jail is *not* such a breach of Jail discipline.

Con. 993. Decr. 24, '35. C. 1. Septr. 15, '37.

These rules have been modified. All offences which are opposed to the maintenance of good order and discipline in the Jails, (as those enumerated in S. 5. XIV. 16.) are punishable with stripes, when established against convicts sentenced to labour in irons.

But such corporal punishment must be *moderate*, and should be inflicted only when it is thought to be "unavoidable for the maintenance of the discipline of the Jail." The rule of C. 1. Septr. 15, '37. which requires the punishment to follow so immediately upon the offence as to be calculated by the force of example, to deter others from the commission of like acts, is therefore rescinded. Prisoners flogged at the time are not liable to be tried and sentenced to any other punishment. C. 235. Novr. 13, '46. N. A. R. V. 6. 58. The above order would also appear to over-rule Con. 993. and give the power of awarding corporal punishment to prisoners convicted of effecting their escape from Jail. There seems no reason why "*attempt* to escape" should be punishable with 30 bents under S. 5. 6. XIV. 16.; and yet escape itself not be so punishable. The completed offence should surely be punished more severely than the mere attempt.

Previous to flogging, M. should satisfy himself that the prisoner is not suffering from any bodily infirmity.

C. 118. Decr. 3, '12, Con. 993. Decr. 24, '35.

M. or Assistant, must be present at flogging.

C. 59. Septr. 24, '30.

Civil Jail prisoner punishable by M. for refractory behaviour, by close confinement, or reduction of diet for 2 months. Difference of allowance to be credited to Govt. as a fine. S. 3. 4. 5. III. 26. He must be released notwithstanding, on satisfying his creditor.

Con. 426. July 14, '26.

Escaping from Jail;—2 years, and 30 bents, commutable to one year more.

S. 5. XII. 18. Con. 1184. Octr. 12, '38.

Labour commutable to fine.

Con. 1215. Augt. 1, '39.

Escaping from under examination, 6 months.

S. 5. XII. 18.

Escaping after conviction by S. J. whilst case is under reference to N. A., to be punished by M. under C. 1. S. 5. XII. 18.

Con. 1246. Augt. 23, '39.

Civil Prisoner escaping, not to be punished, but simply recommitted to Jail.

S. 4. III. 26. Cons. 486. Augt. 15, '28. 545. April 16, '30.

PRISONERS' PUNISHMENTS

S. 3. II. 34. relative to the commutation of labour to a fine, is not applicable to prisoners detained for security for good behaviour.

Con. 881. April 18, '34.

Prisoners not to be put in stocks without special reason; and to be allowed to rest on Sundays, and perform religious ceremonies on their own chief festivals.

C. 183. April 30, '17.

Any Convict sentenced by S. J. or M. A. escaping from Jail, to be brought to trial before S. J. for such escape, as well as for any acts of violence, or aggravating circumstances, attending it; and be subject to such further imprisonment as may appear proper.

Convict escaping without aggravating circumstances, to be punished by M. under S. 5. XII. 18., although he may have been twice before convicted of the same offence.

Con. 501. April 16, '29.

Convict transported for life, returning;—Death. I. 28.

Females not to be flogged. S. 2. XII. 25—or ironed.

C. 31. Octr. 11, '39.

Any prisoner working on the roads, guilty of Assault;—to be punished with fine and imprisonment under S. 19. IX. 07.

Con. 85. April 3, '11.

Prisoner disabling himself for labour, is guilty of a breach of Jail discipline, and liable to punishment under the general rules.

Con. 1152. May 11, '38.

PROCESSES.

PROCESSES.—See "Absconding," "Resistance," "Summons," "Warrant."

In petty cases to be served by tulubana piadahs.

S. 4. VII. 11.

Such piadahs to be registered, with name of father, age, abode, and description of their persons.

S. 14. XXVI. 14.

Nazir not to employ unregistered persons.

C. 3. S. 14. XXVI. 14.

Piadahs to have badges. Table of tulubana according to distance of thanna. (S. 14.) Table to be suspended in cutcherry. Tulubana to be specified on the back of process, and amount collected from person taking out process, previous to its execution. Nazir to endorse receipt, amount, and person from whom received.

C. 6. S. 14.

PROCESSES.

If two, or more, processes are served by one Peon, M. will determine proportions of tulubana.

C. 7. S. 14.

Nazir may advance a portion of the tulubana to piadah.

Con. 1084. March 31, '37.

General Warrant is illegal.

Con. 766, March 8, '33.

When prosecutor, or witness, is absent or absconds, Zumeendar to give piadah a written certificate of absence, engaging to cause his attendance on his return, or to give information at thanna of his arrival.

C. 5. S. 24. XX. 17.

On falsehood, or failure, Zumeendar to pay 200 Rs., or 1 month in Civil Jail.

C. 6. S. 24. XX. 17.

Court issuing process of arrest, is alone competent to release.

Con. 1000. Feby. 5, '36.

Person in attendance on Criminal Court to answer a charge, is not liable to arrest on Civil process.

Nor is person in attendance on Collector, to defend a claim pending before him. But the protection lasts only as long as the party is in actual attendance, or coming, or returning.

Con. 885. May 23, '34. 893. Augt. 1, '34. 1089. April 28, '37.

The Advocate General considered both Plaintiffs and Witnesses entitled to the same protection.

The process of Joint M. shall be issued under his own official seal and signature, and shall be executed by his own officers or those of M.; but the process of an Assistant shall be issued under signature of Assistant, and official seal of M., and shall be executed by officers of M.

S. 8. XVI. 10. Con. 741. Decr. 7, '32.

Civil Court cannot require from M. delivery on Civil process of a prisoner on his release from Jail.

Con. 1276. April 24, '40.

Police Officer of one Zillah cannot be arrested in another, whilst in execution of his duty.

Con. 851. Decr. 26, '33.

Processes on persons in Salt and Opium.

Beaufort, 203. S. 29. XX. 17. S. 21. X. 19.

Process within limits of Supreme Court.

XXIII. 40.

PROCESSES.

PROCESSES. Each criminal process to be directed to J. P. of Calcutta, but enclosed in envelope to Company's Attorney, with letter, form 20, Appendix A. Attorney will prepare it for endorsement by Judge, and send it to Police Office for execution. Subordinate Officers to submit processes of their Courts to their European Principal. Party summoning witnesses, to pay expenses at discretion of Supreme Court. Processes to be drawn up very carefully and correctly.

C. 82. June 18, '41. 185. Novr. 29, '44.

In case of failure to serve summons, warrant of X. 45, to be drawn out in form 29. A.

C. 205. Augt. 1, '45. C. 11. Augt. 28, '46.

No requisitions for witnesses to be sent to Chief Magistrate of Calcutta.

C. 76. Decr. 18, '40.

M. to send his own officer to take charge.

C. 40. Octr. 9, '29.

Warrants for search of stolen property, form 9½, A.

C. 4. S. 11. I, 11.

Search warrants to be issued on solemn declaration of complainant, or informer; or upon incidental knowledge of M.

C. 4. S. 11. I. 11.

M. may issue Search warrant, or require M. of another district to issue it, upon any information before him.

N. A. R. V. 1. 273.

Police must have written declaration.

C. 2. S. 16. XX. 17.

Rules for search.

S. 16. XX. 17.

Great care to be taken to conform to the rules laid down in the above Section.

C. 55. July 23, '30.

M. can order search to be made at night.

C. 13. S. 11. I. 11.

Particulars of finding property to be carefully noted, Form 12. Appendix C. and sent with a despatch to M.

C. 10. S. 16. XX. 17.

S. J. to file original despatch on record of trial.

C. 247. Vol. 1.

Ishtihar of 6 months for suspicious property.—If not claimed, but Defendant cannot prove he came by it lawfully, it should be confiscated. PROCESSES.

C. 10. S. 11. I. 11.

All unclaimed property belongs to Government.

C. 16. S. 16. XX. 17.

M. cannot search house for contraband Opium merely as such; but he may search for it, or other deleterious drug, which he believes has been used as poison.

Con. 1241.

When Sheriff's officer with writ of capias, has occasion to call upon M. for assistance, M. ought to render it; but such assistance must be confined to the legal execution of the writ; as, for instance, the police officers furnished by M. ought not to aid the bailiff in breaking into an house, (though they accompany him if he enters the premises without breaking in;) but they ought to prevent any breach of the peace when the arrest is made, or rescue afterwards.

As to assisting in conveying prisoner to Calcutta, M. must be guided by the circumstances of the case; i. e. he *may*, without incurring legal responsibility, take such measures as are necessary to insure the peaceable execution of the process within the limits of his jurisdiction; but the bailiff is equally empowered after the arrest, to take steps before the nearest J. P. to have the prisoner bound over to keep the peace towards him, or to hire a sufficient number of persons to prevent his escape.

Opinion of Advocate General. C. 8. June 12, '46. C. 10. July 10, '46.

Civil Courts are not to interfere with execution of decrees of Supreme Court, unless a writ directing execution is issued.

Con. 567. July 23, '30.

M. and other officers to assist enforcement of writ of Supreme Court; but they have no power to remove tenants, having tenures and rights of which by law they cannot be deprived by a mere change of proprietor.

S. D. A. 31. May 20, '31.

M. not to oust a third party from possession, but to confine his aid and assistance to Sheriff's bailiff to preventing any breach of the peace, leaving Supreme Court Decreedar to sue the third party in the Zillah Civil Court.

Con. 800. June 21, '33.

Resistance of Process, see "Resistance."

Evasion of Process, see "Absconding."

Persons resisting any process, or rescuing any prisoners apprehended by a warrant of Civil Court, cannot be forcibly apprehended by the Police, and delivered up to the Civil Court; but shall be proceeded against by the Judge under Section 25. IV. 1793.

Con. 765. March 8, '33. 1209. May 31, '39.

PROPERTY.

PROPERTY.—Unclaimed (*La davee*) to be disposed of by M. for Govt.

C. 16. S. 16. XX. 17. C. 3. Novr. 17, '37.

Foujdaree Nazir to receive 1 anna per rupee, for selling.

C. 116. Septr. 26, '42.

Property of Persons dying intestate (*La waris*) immediately to be sent to Civil Judge under

C. 7. S. 16. III. 03.

Should no claim be preferred to it for 12 months, an inventory of the property, with a report of the circumstances of the case, to be submitted by Judge to G. G. in C. for his orders.

C. 3. Novr. 17, '37.

The above provisions of C. 7. S. 16. III. 03. only apply to the property of persons dying intestate, *when no heirs are forthcoming*; it is more advisable that when there are heirs, the property sent in by the police should be disposed of by M. without taking up time of the Judge.

Con. 927. Jany. 16, '35.

Registers of "unclaimed property" and that of "intestates" to be kept in the annexed forms.

C. 151. Jany. 27, '44.

Wukf property cannot be sold, or alienated from the purposes for which it was intended.

Con. 1166. July 20, '38.

PUTTEES.

PUTTEES.—See "Partitions," "Land Revenue," "Summary Suits," "Kharij Dakhil."

PUTWARREE.

PUTWARREE. See "Kharij Dakhil No. 2," "Distraint," "Summary Suits No. 5."—In mehals held by a single individual, that individual of course nominates the Putwarree.

S. B. III. 176.

If the Ryotts of such a Mehal establish to the Collr.'s satisfaction that the Putwarree deals unfairly by them, he will be removed, and the proprietor required to appoint a competent successor.

S. B. III. 177.

Collr. should always personally satisfy himself that the nominee is competent, and should cause him to be examined as to his capability of understanding the accounts now furnished.

S. B. III. 178.

PUTWARREE.

In Putteedaree and Bhyachara Mehals of all kinds, the Putwarree must be appointed and removed by the voice of the majority, the Collr. having a veto for incompetence.

S. B. III. 179.

Only ONE Putwarree is to be nominated to each Mehal. If the Mehal be so large that he cannot perform the duties without assistance, he is at liberty to employ his near relations in whom he may have confidence in the work; *but he himself is to be the sole responsible person*, and is to attend on all occasions on which a putwarree is required to attend, and is to sign and render the annual accounts, and all other accounts required.

S. B. III. 180.

This is a point particularly to be attended to.

The Putwarree is the official accountant of the Mehal, and his accounts alone authentic in every matter in which reference is required to the village accounts. The Board have seen the mistake made by some Collrs. unacquainted with the constitutions of the coparcenaries, of allowing each thokedar to appoint his own separate Putwarree. The result of this is, of course, the production of conflicting statements and accounts on every occasion on which any opposition takes place, and the absence of any record of admitted authenticity, on which the public officers of Govt. can rely. But where the accounts of the whole coparcenary are on the responsibility of a single individual, the constant vigilant attention of each party to its own separate interests secures fidelity and accuracy in the accounts; and as the only mode of giving satisfaction to any community in the long run is by strict justice and impartiality, the putwarree finds himself in a measure compelled, by a regard to his own peace and interest, to maintain a character for possessing those qualities.

S. B. III. 181.

There is no objection to several small Mehals being placed under the same Putwarree, *provided they be contiguous, and the work not more than the Putwarree has full leisure to perform aright.*

S. B. III. 182.

In talookahs held by independent village communities under the Talookdar, the Putwarree will be nominated by the community in concert with Collector and may have charge of as many villages as he can manage properly. Where the Talookdar is single proprietor, he will nominate his own Putwarree, or Putwarrees.

III. 183.

A Register of Putwarrees is to be made yearly, and sent in the form given, on the 1st October.

III. 184.

It is the special duty of the Tuhseeldar to see that the Putwarrees are not unnecessarily detained; and that no gratuity, or fee, is demanded or taken from them by the Canoongoes at the time of giving in the accounts. Should it be discovered that the Putwarrees have been made to pay fees to the Canoongoes, the Tuhseeldar will be

PUTWARREE. responsible for the refund of the amount, and liable to be dismissed. 192. See *"Kharij Dakhil, No. 2, of Putteedars." "Distraint." "Summary Suits."*

Putwarree papers must be given in regularly. S. 14. Any Farmer, or Landholder, *not* doing so, to be deemed incompetent to oust any Ryott, or other tenant, from his land for non-performance of the terms of his tenure, or lease, or on any other pretext; or to distrain, or sue for arrear of rent, or breach of agreement.

S. 15. Any such suit to be non-suited with costs; and should he proceed to oust the Ryott, or distrain his property, he shall be liable to damages.

IX. 33.

Grants to be looked upon as Maaffees, and the conditions on which they are held do *not* exempt the Grantees from the operation of the general laws. As observed by the Commr. April 9, '46. "It would be hard indeed to place the innocent tenantry beyond the pale of the law for the offence of omission committed by the land-owner, in which they have no voice, and can exercise no control."

Court of Directors. Decr. 29, '48.

Care to be taken that Putwarrees keep up their records regularly and correctly. If they do not, they should be made to explain the reason. If wilful, they should be turned out. If Lumberdar, or Farmer, have thrown impediments in Putwarree's way he should be fined under S. 13. XII. 17. as explained and modified by S. 7. I. 19. besides being subject to the penalties and disabilities of IX. 33.

Till Putwarree papers have been filed, according to form, for the preceding Fuslee year, no suit for rent can be heard, either by Collector or Civil Court. Collector should therefore see that the Tuhseeldars and Canoongoes get the papers as soon as ever the collections of the current Fuslee year in each village have closed, and the village accounts have been adjusted; (and should apprize the Civil Court when proprietors of land have become liable to this penalty.

Directions. 147.)

The papers should be compiled in the village, and every facility given to every one to see them, both at the Putwarree's, Tuhseeldar's, and Collector's Cutcherries. A few cases from each Tuhseeldaree, should be examined by Collector. The greatest readiness should be shown to listen to complaints of wrong entries, which are cognizable as against Putwarrees, by XII. 17. Where local enquiry is necessary, it should be made through Tuhseeldar. (The S. B. have ruled that there is no legal limit for the hearing of complaints of false entries in Putwarree's papers.

Commr. *5th* Division. May 10, '48.)

In all suits regarding fields, whether for rent, replevin, dispossession, or otherwise, the numbers and areas of the fields should be given, either at the foot of the plaint, or on a separate Memo. signed by Putwarree.

In all butwarrahs Collector will be very careful, either that the old numbering of the fields is maintained; or else, that a new Khusreh and Field Map is formed, and the Khutoonee, Terij, and Khewut papers so arranged at the time of partition, as to form the basis and starting point of a new series of Putwarree's papers.

S. B. March 21, '43.

PUTWARREE.—RAIN GAUGES.

PUTWARREE.

When a Putwarree is dismissed, the sanction of Commr. need only be previously applied for, when, without complaint on the part of the Zumeendar, the Collector of his own act thinks fit to dismiss the Putwarree.

S. B. C. 8. June 27, '45.

The offices of Canoongoe and Putwarree are generally hereditary. The feeling of the people is strongly in favor of hereditary succession to these offices, and there are many reasons which render it very desirable to respect this feeling. The local influence and knowledge of the hereditary Officer is greater than that of a stranger can be, and his respectability of character is more likely to be maintained.

Positive delinquency, or incapacity, must of course disqualify individuals; but in such cases some persons near of kin may be selected, or, if the succession be necessarily interrupted in favor of a better qualified stranger, recurrence may be had to the former line on the first favorable opportunity.

Directions. 18.

For their functions, see IV. 1808. and XII. 1817.

Facilities now exist for ensuring a good standard of qualification on the part of Putwarrees, and Ram Surun Doss's four elementary books contain the literary information which it is necessary for the village Putwarree to possess in order to qualify him for the discharge of his duties. It would be injudicious at once to require of all Putwarrees a perfect acquaintance with these books, as indispensable for their longer retention of office; but it would be desirable to bring the books authoritatively under their notice, and to mention them as containing information which they were expected to acquire, and for deficiency in which at some future period (as for instance a year or two hence) they might be liable to lose their office. On vacancies, the Nominee might be examined in these books by the Tuhseeldars or Canoongoes, and permanent confirmation might be withheld, till he had obtained an adequate knowledge of the most important parts of the contents. An attempt might also be made to induce the Lumberdars of village communities to acquire the same information. Whenever, under the terms of the administration paper at the time of Settlement, the sanction of the Collector is necessary to confirm the election by the village community, advantage may be taken of this proviso to provide that the future representative of the community shall be possessed of this knowledge, which is in fact essential to the proper discharge of his duties.

S. B. Octr. 27, '46. G. O. Octr. 6, '46.

Perjury of Putwarree, see "Perjury."

RAIN GAUGES.

RAIN GAUGES to be kept at every Revenue Office.—Form of Register.

Sec. XVIII. S. B. IV.

A Quarterly (half yearly, by S. B. Decr. 3, '47.) return to be submitted.—Tuhseeldar to state particulars himself, in the column of remarks; also any repairs made, or required.—Collr. to examine state of Gauges himself. A few spare Gauges should be

RAIN GAUGES. kept. Repairs very carefully made. Great attention to be paid to the careful and accurate preparation of the registers.

S. B. March 30, '47.

Though Tuhseeldar is personally responsible, yet he should make over the Rain Gauge to some subordinate who is always on the spot.

As Tin gauges leak, the **S. B.** are prepared to sanction the preparation of Copper Gauges when the present Tin ones are worn out.

S. B. Jany. 14, '48.

The *Average* fall is the sum of the actual results, divided by the *whole number* of gauges in use.

S. B. April 25, '48.

RAPE. RAPE.—To be committed to **S. J.**

S. 6. XVII. 17.

M. may take cognizance of Rape, without complaint; but he should do this with discretion, and due regard to the feelings of the injured female, and her family.

Con. 670. Jany. 13, '32.

Rape may be referred to Darogah for investigation.

Con. 1174. Septr. 21, '38.

Darogah is competent to investigate a charge of Rape, preferred direct to him.

Con. 1365. Decr. 9, '42.

No compromise should be admitted in Rape after a complaint has been preferred; and should the injured party, or her nearest relative, refuse to prosecute, a public prosecution should be directed.

N. A. R. V. 3. 127. Con. 318. July 7, '20. 403. Augt. 24, '25.

In a trial for Rape, prisoner cannot be convicted of Adultery.

N. A. R. V. 5. 140.

When the ravished person is too young to prosecute, the Govt. Pleader should be constituted Prosecutor.

N. A. R. V. 3. 170.

Attempt to commit Rape is punishable by **S. J.**, and need not be referred.

N. A. R. II. 182. III. 215.

RAZEENAMEH. RAZEENAMEH.—The only provision which authorizes admission of a private compromise in criminal prosecutions, is that of S. 8. IX. 07. which directs that "excepting the trivial cases noted in the section, no razeenameh shall be received without the

special sanction of M.; nor shall any private compromise be admitted by M. in crimes of a heinous nature, such as on conviction, may require exemplary punishment for the ends of public justice." RAZEENAMEH.

The principle of this prohibition applies to all Criminal Courts.

No Court of Circuit would be justified in admitting a compromise in crimes of a serious nature; and a razeenameh cannot be admitted by S. J. to bar trial of a Commitment by M.

C. 187. July 31, '17.

See "Stamps."

REBELLION. Punishable at discretion of Court. REBELLION.

S. 2. 5. IV. 1799.

M. to obey any orders of Govt., and enquire, apprehend, and commit.

S. 6. IV. 1799.

British subject openly aiding and abetting enemies of Govt., liable to Death.

X. 04.

It is competent to the ordinary tribunals to try charges of treason, rebellion, and other crimes against the State.

S. 1. V. 41.

Govt. can issue a Commission.

S. 2.

Commission to try the prisoners, reporting sentence to N. A.

S. 3.

N. A. to report to Govt., and await the orders of Govt. for 3 months, before directing their sentence to be carried into execution.

S. 5.

Magistrate in taking up such charge to give immediate notice to Govt., and to be guided by orders he may receive.

S. 6. V. 41.

RECORDS. The careful preservation of Documents affecting the titles to landed property, is especially necessary to Govt. in India. Whatever adds to the value of landed property, gives greater security to the present revenue, and better hope of future increase. RECORDS.

Directions. 238.

Under Native Govts. the demand is limited only by the power to squeeze.

RECORDS.

The British Govt. by fixing its demand for a term of years at a moderate amount, on the townships called Mouzahs, has given an additional and definite value to the land. Whatever surplus there may be after paying the Jummah, belongs to the Proprietors of the land, whether it results from increase of cultivation within the limits of the Mouzah, from improved husbandry, or from any other cause. In order, therefore, to prevent disputes, and to enable each man to improve his property, it has become necessary accurately to define who is the Proprietor, what is the nature and extent of his property, and to what incidents it is liable.

Directions. 239.

This is the more necessary under the system of joint responsibility which binds together the several members of the village communities. Under any circumstances such a kind of tenure is likely to lead to cases of hardship; but if it is desired to avoid the grossest acts of injustice, some means must be afforded for determining, in cases of default, who is the defaulting member of the community, and how far he is able to make good the demand against him.

Directions. 240.

In the early years of British Rule it was fancied that the decisions of all questions of individual right might be left to the operation of the ordinary Courts of Justice, where every person who considered himself aggrieved, (and who *could pay*) might claim of right a hearing of his case. Experience, however, has proved this idea to be a fallacy. Twenty years had not elapsed before a Special Commission was appointed under I. 21. with extraordinary powers to remedy the injustice which had already been done, and VII. 22. was enacted to prevent future wrong, by the formatian of the present system of Record and Registration.

Directions. 241.

Reasons for the break down of the Civil Courts.

Directions. 242.

The bulk of the annually increasing Records of the Collector's Office is very great. Year after year a mass of papers is sent into the record office, which must choke up any room of ordinary dimensions. It will no doubt soon be necessary to destroy the bulk of them, retaining only those of a late date, or of more than ordinary importance. The Purgunnah Indices afford facilities for separating the useful from the worthless; and the opportunity should be seized of every remeasurement, and of every recasting of the record, to set aside the former record for destruction, as soon as the lapse of a few years shall have shown its uselessness, and have effectually substituted the new for the old record.

Directions. 253.

The entries in the Purgunnah Indices are according to headings, those in the Fly Indices consecutively according to chronological order; the one being to classify Misls, the other to prevent their being stolen.

S. B. Jany. 11, '48.

RECORDS.

Person refusing to deliver up Records of Canoongoe, to be punished as for resistance of process.

S. 10. II. 16.

Record-keeper guilty of neglect, or omission, to be dismissed. XVIII. XXI. 1793.

M. may destroy useless papers, when there is an accumulation of Records, in the presence of himself, or Assistant.

C. 88. Septr. 9, '31. 182. Octr. 16, '35.

All decisions passed by Collr. under powers given by G. O. Septr. 12, '48. (see below) are liable to be reviewed on their merits within 3 years by the Civil Courts. It is therefore important that the grounds of every decision be fully stated, so that the reasoning on which it rests may be clear. The careless, or faulty drawing up of the final order may deprive the proceeding of much of its value, and may even lead to the reversal of what was in itself just and proper. When cases are called for by Civil Court, Collr. should be careful to see that all the material papers bearing on the case are forwarded with it to the Court. The labour is always usefully bestowed which furnishes full information to the Judge, and enables him to come to a correct decision.

Directions. 252.

Whenever the Civil Courts may call for Revenue proceedings under C. 1. S. 31. VII. 22. Collr. should be careful himself to examine the case, and to see that the return is complete, adding to it any documents which he may see to be wanting, or forwarding the roobakarees in other similar cases, where the arguments may be more fully set forth. If these have not before been translated into the vernacular, they should be so translated before transmission, for it is important that all which bears on the case should be as accessible as possible to all parties.

In all such cases, the Collr. is required to submit the papers to the Commr. who will be responsible for seeing that all the documents bearing on the case, or class of cases in question, but which may not be in the ordinary Misl, are included in it, and if necessary, translated into the vernacular language. The Commr. will lose no time in passing orders upon the Collr.'s reference, and he will likewise keep the Board informed of all particulars respecting these cases.

S. B. Octr. 8, '47.

The execution of this order is impossible. It is necessary that the Board and S. D. A. should arrange some rule for the Civil Courts, informing the Collr. when *the principle* of any Settlement Decision is called in question, in order that the Collr. may furnish with the Misl, all orders, correspondence, precedents, and arguments, bearing on the point in question, so that the Court may have the full merits of the case before it, and understand the whole reasoning on which the Settlement order is based. Such cases are not one in a hundred of the numerous Misls sent daily for the information of the Civil Courts, who send for them without any specification of the purpose for which they are wanted, or the point in dispute. Where the principle of the Settlement is contested, Govt. ought to be made a party to the suit; and the notice to the Collr. would put him on his guard to have the Misl put right, with all supplementary papers in support of the principle. At present dozens of misls are

RECORDS. sent daily for a few minutes' inspection by the Civil Courts. To attempt to obey the order of the Board as to all these, would cause intolerable delay, and break down the dák runners. All that is wanted, is, that the Collr. should receive intimation as to the cases where Govt. is concerned, in order that all collateral supports to the contested order may be transmitted with the misl.

There has been a good deal of Correspondence on this subject. When the above objections were made to the S. B. they ordered Para. 7. Jany. 18, '48. that "the Govt. Vukeel should be required to send an abstract of the case to Collr. whenever a requisition is made, and this abstract should accompany Collr.'s letter to Commr."

The execution of this order is equally impossible, the Govt. Vukeel knowing nothing of the cases pending before the Native Judges. On a third reference, the S. B. replied, "The Collr. has only to keep his ears open, and to order his Tuhseeldars to do the same."

S. B. March 7, '48.

NOTIFICATION.

12th September, 1848.

The Hon'ble the Lieut.-Governor is pleased to invest all Collectors and Deputy Collectors in the Ceded and Conquered Provinces and in the Delhi Division, with special powers under Section 20, Regulation 7, 1822, and in the Province of Benares, with the same powers under Section 3, Regulation 9, 1825.

2d. At the same time the attention of all Officers in the Revenue Department is desired to the following remarks on the nature of the powers thus entrusted to them and the mode in which they are to be exercised.

3d. The object of the measure is to enable the Collectors to complete the record of rights in land which should have been made at the time of settlement, and to correct the existing record, wherever it is found to be at variance with fact.

4th. The power is to be restricted to the declaration of rights in possession. The extent and nature of these rights may be defined, but the claim of a person who has been out of possession for a year cannot be heard, nor can a right, which has been clearly enjoyed by one of two parties in possession, be transferred to another. Rights in common property may be declared and defined, and partition ordered. The terms of Section 14, Regulation 7, 1822, sufficiently define the limits of the powers which are to be exercised. The provisions of Section 16 are not put in force.

5th. The Revenue Officer is not bound to take up every complaint that is made to him, nor is he restricted in his investigation to the consideration of the precise point, which is stated by the petitioner. He is competent to refuse an investigation, where he does not consider it necessary, and he is competent of his own proper motion to enter upon an investigation, or to extend in such manner as he may think fit, an investigation that has been commenced on the petition of a party. Herein consists the main distinction between the jurisdiction of the Dewanny Courts and of the Revenue Authorities. The former cannot refuse to consider any question that is placed before them by a person who considers himself aggrieved, and must confine their enquiry to that question. The Revenue Authorities can decline an enquiry which they think unnecessary, and they can originate an enquiry which they think necessary.

6th. An appeal will always lie to the Commissioner on both points, viz. on the refusal to enquire, when enquiry is desired, and on the determination to enquire, when

enquiry is not desired. The Commissioner can revise the proceedings of a Collector or Deputy Collector, without an appeal being preferred to him, and he can summarily reject an appeal, if he considers his interference unnecessary.

7th. In order to ensure regularity of procedure every Collector should open a file of cases under Section 14, Regulation 7, 1822.

8th. Cases investigated under the Regulation will regard whole Mouzahs, or parts of Mouzahs, or the entire property, or one or more particular rights of an individual. They must be numbered and entered on the file according to the date of institution. Cases may be brought on the file either by the petition of a person considering himself aggrieved, or by special order of the Officer. When a petition for enquiry is rejected from whatever cause the case must still be entered on the file. It may be considered sufficient reason for rejection of the petition that the Collector has not leisure, as it is evidently impossible that he should at once enter upon the investigation of all such questions. The petitioner always has his remedy in the Civil Court. It will however rest with the Commissioner to determine on appeal, whether the case is of so much importance as to require that it be immediately decided to the preference of other work. The Commissioner or the Sudder Board of Revenue is also competent to interdict the hearing of such cases in any particular district, or before any particular Collector or Deputy Collector when they consider it expedient to do so.

9th. When a Collector by his own order placed a case on the file, he must record a proceeding setting forth the grounds of his determination to make the enquiry. The Commissioner on the appeal of any dissatisfied party can decide whether the grounds assigned are sufficient, or whether the proposed course of procedure is otherwise expedient. The Commissioner should be careful that the Collectors' file be not overloaded, so as unnecessarily to cause the agitation of many questions, which cannot be brought to an immediate issue.

To help to defray the expenses of the Record Office, authority is given by S. 9. for levying Fees on the Division or Union of Mehals, or on their Transfer by Sale, Gift, or otherwise. These Fees are ¼ Rupee per cent. on the jummah of estates paying revenue, and 2½ per cent. on the annual produce of lands exempt from revenue. The payment is compulsory, and may be enforced by the same process as for arrears of revenue. It is held that fees are *not* leviable upon succession by Inheritance, or on the election of a new lumberdar, or on imperfect partition, or on transfers of subordinate properties. They are leviable on all Transfers, or Divisions, or Unions of Mehals, whether by act of the parties, or by order of the Civil Court.

Directions. 129.

By Sec. 11. III. 03. copies of all Decrees of the Civil Courts regarding landed property, must be lodged in the Collr.'s Record Office, which thus contains a local index to the chronological decrees of the Civil Court.

Directions. 139.

The vernacular proceedings generally contain a reference to any English correspondence which has passed regarding a Mouzah ; (they *ought* always to have a translate of every letter despatched and received ;) but it would also be convenient to have a column in the general Index to show the dates of English letters which have been written, or received, connected with its affairs. These Indices would then afford a clue to all recorded facts and opinions regarding every Mouzah in the district.

Directions. 140.

RECORDS.

RECORDS. Rules should be prescribed for the delivery of completed Misls to the Record Office, and the placing of them by the Record-keeper in their appropriate place. It might be a rule that on each Saturday the Serishtadar should make over to the Record-keeper the misls disposed of in the week immediately preceding that just expired, and that these should always be placed in their proper shelves in the course of the following week. Arrears ought never to be allowed to accumulate.

Directions. 149.

In order to satisfy oneself of the efficient state of a Record Office, it is necessary to ascertain, that the Records are rightly arranged, and can be quickly produced.

That they are placed up to the latest date required by the standing rules of the office, and entered in the Indices. That the Fly Indices for each Mouzah are properly kept up.

And, that the Misls themselves are rightly compiled, the papers being properly numbered, and enumerated in the list, and the list closed. The last named operation should be done in the Serishtadar's office, before delivery to the Record-keeper, who should refuse to receive a Misl till it has thus been made up.

Directions. 150.

The Records should be made accessible to the Public. Record room should have only one door, with ante-room in which Record-keeper and his assistants should sit.

Para. 4. Any person desirous of inspecting the Records must petition the Collr. in the usual mode, stating the object of his enquiry, and giving such particulars as he may be able of the papers which he requires. Collr. will, as a matter of course, grant permission, and refer the petitioner to the R. K. who will immediately produce the bundle containing the required papers, and intrust them to one of his assistants, before whom the Petitioner will be allowed to make a leisurely examination.

5. A fee of 8 annas per hour for each Assistant employed.

6. No stranger will be permitted to enter the ante-room with pen and ink; but he may carry a pencil and paper, to the use of which he will be carefully restricted. Should any person desire to have notes, or unauthenticated copies in ink, he can get the Assistant to copy for the usual fee.

7. Collr. should aim as far as possible, never to suffer any of the Records, whether called for in the ante-room, by the Revenue Authorities, or by the Civil Courts, to be out of sight of the R. K. or one of his Assistants.

8. Whenever, from the vicinity of Cutcherries, it will facilitate the dispatch of business, Collr. should authorize the Civil Courts, or other Public Authority empowered to call for papers, to address the R. K. direct for any Records they may require; in which case he should without delay forward the required papers under charge of one of his Assistants who, if the Court inspect the Misl on his arrival will, when the inspection is over, bring it back at once to the office; but, if the Court require to retain the Misl for any period longer than that necessary for immediate inspection, he will leave the Misl with the Court, taking a proper receipt, and a copy of the index, or *firist*, of the Misl.

9. The Fees sanctioned in XXIII. 03. should be universally levied on the registration of all Partitions of Estates under XIX. 14., and also of all transfers of property by Sudder Malgoozars, but *not* on successions by inheritance. The Registration will

take place, and the fees be levied, on information of the transfers, however obtained, whether from the parties, or from the Canoongoes under C. 4. S. 7. IV. 08., or from the record of the office. When the transfers have been effected under the orders of the Civil Court, mutation of names (Kharij Dakhil) in the register of Sudder Malgoozars will be effected at the same time that the fees are levied. Fees can *not* be demanded on transfers by others than Sudder Malgoozars, which involve no alteration in the Registers maintained under X. 03.

RECORDS.

10. These Fees, as well as those in Para. 6. will form a fund from which will be entertained such number of additional Assistants to the R K. as may be necessary. He should be allowed to nominate his own Assists. for Collr's. approval, and should be held responsible for their good behaviour.

11. If this fund prove still insufficient, the S. B. will be prepared to sanction an expenditure equivalent to the amount of Stamps on the petitions of Para. 4.

S. B. Feby. 25, '48.

Power to recast Records given by G. O. Septr. 12, '48., and method of doing so explained in Paras. 247—253. of "*Directions.*" See also "Kharij Dakhil," "Rent-roll," "Office."

RECEIVING STOLEN PROPERTY.

Receiving Stolen Property. A receiver may be convicted, although the thief be unknown; provided that the fact of theft, or robbery, be established; and it be proved that he knew that the property had been feloniously obtained at the time of receiving.

Con. 133. Augt. 12, '13. 217. July 27, '15.

The having possession of property obtained by theft, without having received it with the knowledge that it was so obtained, such knowledge having only subsequently arisen, is a misdemeanor, punishable with three years. Whenever he punishes more than this S. J. to state particularly his reasons in the monthly abstract.

C. 215. Jany. 25, '19.

Where no criminal act shall appear to be imputable to a bonâ fide purchaser, or possessor, of stolen property, the knowledge having been only acquired since its possession, a discretion is vested in M. not to punish at all.

C. 215. Jany. 25, '19.

The knowingly receiving stolen property is a bailable offence.

Con. 1237. Augt. 16, '39.

The receipt of stolen *cash* not cognizable under S. 7. I. 11. as to receivers of "stolen goods, or effects."

Con. 217. July 27, '15.

The finding of plundered property in the prisoner's house *out* of British territory, not sufficient proof of receipt within those territories.

N. A. R. V. 2. 80.

REGULATION.—REGISTRAR OF DEEDS.

REGULATION.

REGULATION, is considered promulgated from date of receipt of English Copy, upon which the date of receipt should be officially noted.

C. 137. June 7, '33.

Production of Government Gazette sufficient proof.

X. 35.

Pleaders to be required to take copies.

S. 12. XI. 06.

Retrospective action—Beaufort. 19. No Regulation to have a retrospective action if *dis*advantageous to the prisoner, N. A. R. II. 89. 233. But when an Act has been passed subsequent to the commission of a crime, which may be favourable to a prisoner, he should be allowed the benefit thereof.

N. A. R. III. 107.

Public officers to propose new regulations, when necessary, under S. 3. IX. 03, even though not within the scope of their immediate functions.

C. D. A. April 22, '25.

REGISTRAR of DEEDS.

REGISTRAR OF DEEDS. Principal S. A. always to be Registrar. When there is no P. S. A. then Judge to report who would be best.

G. O. Octr. 19, '44.

Registrar must sign with his *full* signature, such being indispensable for registry. Any neglect, or carelessness, in a matter of so great importance, will be noticed with severe reprehension.

S. D. A. June 16, '48.

A prior *un*registered conveyance void as against a subsequent conveyance duly registered.

I. 43.

Every deed of sale of Lands, &c. &c. duly registered, and authenticity proved, to invalidate any other deed of sale for the same property which may not have been registered. Ditto memorial of mortgage.

XIX. 43.

C. 7. S. 24. XLII. 03, which requires Registrars of Deeds to furnish Collectors "with the particulars of all transfers of landed property which may be entered in their registers," enforced; and the Registrars are ordered to transmit a correct and carefully written copy of every Deed affecting landed property to Collector without delay, and after careful comparison and signature. Also to forward to Collector at close of each month an extract from their Index No. 2., which Collector will compare with Deeds received, as to whether all have been received, or not.

REMISSION OF REVENUE.

REGISTRAR of DEEDS.

The duty of forwarding to Collector copies of deeds under IV. 45. will rest with the Registrar of Deeds, whose office may be established at the sudder station of the district in which the property affected may be situated.

C. D. A. 1204. Septr. 1, '47.

Collector to endorse Registrar's proceeding, which will form a separate misl of the mouzah. *When* any document becomes the occasion of an actual transfer of proprietary possession, there will be an additional misl and a fresh entry under "Kharij dakhil." A *Jdkur* to be placed in the bundle of each mouzah affected by the deed. Collector will carefully compare the Index No. 2. with the deeds actually received.

S. B. Octr. 1, '47.

Be it remembered, that the Registrar only notifies the execution of the deed, *not* the actual transfer in pursuance of the deed. Mutation of names in Collr.'s register will not be made until the provisions of the deed have been carried into effect, or are on the point of being so, as explained in *Directions*. 191. See "Kharij Dakhil."

REMISSION of REVENUE.

REMISSION OF REVENUE *is no light thing. The proof of necessity must be complete.* Collector must therefore show distinctly the actual necessity of remission, and submit proof that the demand should not be enforced, or cannot be realized, either immediately, or at a future period.

G. O. Feby. 10, '44. S. B. Feby. 20, '44. April 23, '44.

See "Compensation"—"Jummah"—"Alluvion."

Deficiency of Assets arises in general either from Diluvion (see "Alluvion"), or from calamity of season, such as want of rain, floods, blight, hail, &c. &c. The greatest care should be taken to ascertain with promptitude the extent of the loss, as soon as possible after it is alleged to have occurred. The destruction of the crop may have been so complete, as not to leave sufficient for the support of the people, and payment of the Government demand, in which case the Malgoozar must pay from other sources, or borrow, or the property must pass into other hands. In such a case it will be for consideration whether measures should be adopted for compelling such a result; or whether the relaxation of the demand would be just and politic. In weighing this, it must be remembered, that the principle of the assessment has been, *to fix a moderate average demand for a long course of years.* The Govt. agrees to relinquish the excess in a good year, and it is fair to expect that the deficiency of a bad year should be made good from the accumulated surplus of past, or the anticipated surplus of coming years.

If, therefore, the property is fairly assessed, and the Malgoozar possessed of means, it may be right to press for immediate payment, notwithstanding acknowledged deficiency of assets.

It may also happen, that the Malgoozar is irretrievably ruined, and that any relaxation of the demand would be ineffectual for his relief, in which case immediate forced transfer of estate may be the best course.

Supposing, however, that from severity of original assessment, from deterioration of the estate after Settlement, or from poverty of the Malgoozar, it may be right to relax

REMISSION of REVENUE.

the demand of the State, it must then be decided how this relaxation should have effect, whether as a

Remission of demand,
a Remission of balance,
or a Reduction of Jummah.

Directions. 38.

The demand may be suspended under authority of the Commr., or S. B.; and this relief will often be sufficient and effectual, when the estate is valuable, the calamity unusual and the Malgoozar industrious and frugal. To render it effectual, a Kistbundee should be taken from the Malgoozar, and arrangements made, with or without, security, for repayment of the balance by instalments.

Directions. 39.

If, however, it be decided, that the balance cannot be hereafter realized, without too hardly taxing the industry of the Malgoozar, or permanently affecting the resources from which the future demand is to be paid; suspension of the demand becomes preparatory to remission of balance, which can only be done by authority of Government, and requires application for special sanction, and full explanation of the grounds on which the measure is recommended. D. 40. See detailed Rule S. B. II. 168. to 188. Also *Directions.* Appendix, No. 2.

Evidently no simple allegation that the balance is irrecoverable, or that the assets are deficient, will satisfy Government of the necessity for the remission. If the Collector seeks to justify himself, or desires that any weight should be attached to his representation, he must explain fully the cause of the alleged deficiency of assets, the means he took for satisfying himself of its reality and extent, and the reasons why he considers the proposed remission of the demand, just, politic, and sufficient for the purpose.

Directions. 41. S. B. Feby. 20, '44. April 23, '44.

Where Remission of Revenue is proposed on account of Land taken for public purposes, fractions of a rupee should be excluded from account. Where the fraction is below 8 annas, it may be omitted; where it reaches, or exceeds, that amount, it should be charged as a full rupee.

The same rule should be observed in Summary Settlements.

S. B. Augt. 22, '48.

2. Whenever the purposes for which the Land is appropriated by Govt. are not necessarily of a permanent nature, the entire Jummah of the Estate should be retained in the Towjee, and the Annual Remission should be entered in the Memo. attached to the Jummah, Wasil Bakee, specimen of which is given in page 147 of Accountt.'s Manual.

3. Where, however, the land must necessarily be retained permanently, (as in the case of the Trunk Road, or Ganges Canal,) the Jummah should be at once reduced to the extent of the remission sanctioned.

S. B. Octr. 19, '49.

REMISSION OF REVENUE.

It may be that the original assessment was so severe, or that the estate has become so much deteriorated, that it is impossible to maintain the former assessment. Revision of Settlement, and Reduction of Jummah, then become necessary. It is but very seldom, except in case of Diluvion, or occupation of land for public purposes, that such a proposal can be justified, without previous endeavours to realize the demand by all legal means. Such a case may possibly be conceived; but it must be remembered, that the Government Jummah is not a mere fixed fraction of the nett produce, to which the demand must be lowered whenever it can be shown that the nett produce has fallen below the originally assumed amount. The Settlement is a contract between Govt. on the one side, and the Malgoozars on the other, and in its nature is equally binding upon both. Nothing can require that the fixed demand of Government should be increased during the currency of a settlement; and its reduction can only be recommended on those general principles of policy and humanity, which regulate all fiscal arrangements.

The above remarks apply to ordinary and casual instances of default. When a general famine prevails, arising from continued drought, or any other extensive visitation of Providence, extraordinary measures evidently become necessary, and Government interposes its authority to suspend the ordinary course of proceeding.

Drought is the most common scourge of the N. W. P. In order to judge of its degree, all Tuhseeldars have been furnished with rain guages of a simple construction, and care should be taken to see that they understand the use of the instrument, and furnish accurate and trust-worthy registers.

Directions. 42. 43. Appendix II. III. S. B. II. 165.

Much may be done towards diminishing the effect of drought, by artificial irrigation from wells, reservoirs, or canals; by improved modes of agriculture; and by the promotion of thrifty habits, the natural result of good Government.

When complaints of bad seasons, and ruined crops, are frequent, there is much reason to suspect some misgovernment. A prudent Collr. will not close his ears to such complaints. He will hear all that is said, examine for himself, and draw his own conclusions. But he will not give too easy credence to every assertion of the kind, or be led away by a weak facility of disposition, to encourge such excuses, by lightly altering his measures on the assumption of their validity. Discrimination and firmness, as well as kindness and consideration, are necessary for the good government of the people.

Directions. 44.

In certain states of the country and people, a Collr. who knows the people well, may do much good by judicious advances of *Tuccavee.* The power of authorizing them is vested in the Board, to whom all applications should be addressed.

Directions. 45.

In making such grants, the works for which they are required should be specified, and estimates of the cost of their construction should be carefully prepared and examined. The advance should rather come in aid of the exertions made by the Malgoozars themselves, than in liquidation of the whole charge.

Directions. 46.

REMISSION of REVENUE.

Engagements should be taken for the repayment of the Tuccavee by instalments on fixed dates.

It is usual also to require collateral security; but this entails expense, and materially detracts from the value of the boon. By S. 43. XXVII. 03. Tuccavee is recoverable by the same process as arrears of Land Revenue. The estate is therefore hypothecated for the liquidation of the advance made for its improvement; and this ought to be a sufficient guarantee for its recovery.

Directions. 47.

See S. B. III. 245—249.

Under "Remissions" in the Jummah Wasil Bakee, should be included such balances only as have, during the year, been remitted under sanction of a Govt. order, the date of which should always be cited opposite the item, as well as any permanent Remissions which may exist in the district, and which require to be annually written off in this statement.

The particulars of all Remissions charged should be entered in detail on the back of the statement, giving the amount pertaining to each Mouzah, with the circumstances under which the remissions were sanctioned, such as Drought, Diluvion, &c. &c.

Manual. 14.

See "Alluvion," Jummah," "Remission," "Rentroll."

No *Debit* can be made to the head "Land Revenue," any Refund of collections being chargeable to "Profit and Loss" under the special orders of Govt. only.

No Remissions of Land Revenue can be granted without the express sanction of Govt.

Manual. 61.

See "Compensation," "Jummah," "Alluvion," "Accounts."

REMITTANCE.

REMITTANCE.—See "Treasury 17," "Treasury 18, Sepoy Remittances," "Treasury No. 4. Bills of all sorts."

RENT.

RENT.—See "Land Revenue," "Summary Suits," "Jummah," "Remission."

RENTROLL.

RENTROLL.—The S. B. draw attention to Paras. 161 and 163 of *Directions*, and direct that Collectors should at once enter upon the preparation of a *Malgoozaree Register* so as to show the state of property on April 30, '49.

Rules for the preparation of *Pergunnah* Registers are given in Para. 235 of Directions. Where they have not already been drawn out, they should be commenced immediately, and entries made in them from and after the 1st May, 1850.

Commrs. will satisfy themselves that these Registers are accurately prepared, and furnish the Board with specimens from each district.

S. B. Septr. 7, '49.

RENTROLL.

The *Malgoozaree* Register is designed to show who are the persons responsible to Govt. for the payment of the Revenue as proprietors, and for what amount of Revenue from what lands they are responsible. It has been remarked in Para. 65 that process should be issued, and the collections made *Mehalwar*, and *not Mouzahwar;* that is, the payments due from one proprietor or body of proprietors, should be demanded as one sum, and separate demands should not be made for the jummah fixed on each mouzah. If a fresh Malgoozaree Register be prepared at the commencement of each year, it may show how many items of demand can thus be thrown together, at the same time that it fully answers the other objects for which it is designed. It will become the guide to the Tuhseeldar in making his demand, and keeping his accounts. It's annual requisition, and the practical use to which it is put, will ensure its punctual maintenance.

Directions. 161.

The Register should be prepared by the Tuhseeldar when he makes up his accounts, for the collection of the revenue of the ensuing year. All changes in the disposition of property during the year should be notified by the Collr. to the Tuhseeldar, and should be shown in the following year's malgoozaree register, where each change must be supported by a reference to the Collr.'s order which notifies it. No register of intermediate mutations will be necessary. If on coming to compile the register at the commencement of the year, the Tuhseeldar finds that some changes have taken place which have not been notified to him, it will be his duty then to report them and to await orders, retaining in the register the old entry with a note of his report.

Directions. 162.

The alteration which may take place in this register are the results of some of the most important functions of a Collr., and require distinct mention.

I. Union of Estates.

II. Division of estates, see "Partition."

III. Changes of Proprietors, see "Kharij Dakhil," "Kistbundee."

IV. Bringing Mouzahs on the Rentroll.

V. Removal of Mouzahs from the Rentroll.

VI. Alteration of the Jummah of Mouzahs, see "Jummah"—"Accounts."

I. Union of Estates. The grouping together of several Mehals belonging to the same proprietors, which is to be effected in the Malgoozaree Register explained above in Para. 161., is calculated to promote the convenience, both of the officers of Govt., and of the proprietors of the land. In cases of default, succession, &c. &c., it lessens the number of processes which the former have to issue, and which the latter have to receive, and thereby lessens the trouble of the former, and the expenses of the latter. If, however, the proprietor for any reason object, the grouping cannot take place. The separation of the jummah on the several mehals so grouped together, remains complete. If the proprietors should wish to pay up the jummah first on any particular mouzahs, they can always do so by specifying in the *urz-irsal* the name of the mouzah to which it is to be credited; and in that event the Collr. could only proceed in the first place against the mouzah, on which the balance was left due, (see Para. 99.) Without such specification the payment would be credited to the whole mehal, and, in the event of default and sale by public auction, the Collr. should, in conformity with S. 14. I. 45,

RENTROLL. put up first to sale that mouzah which stands first on his register, and then proceed to sell the next, till the whole balance is realized.

Directions. 165.

Where the different properties lie in separate Tuhseeldarees, they cannot be grouped together, unless all the mehals be made Huzooree in the proper sense of that term as used in S. 9. XXVII. 03., namely, unless the proprietor be allowed to pay in his jummah direct to the Sudder Treasury. No proprietor can claim of right to be made Huzooree. The arrangement can be made with the approval of the S. B. but its continuance, should be made dependant on the punctual payment of the revenue.

Directions. 166.

IV.—Bringing Mouzahs on the Rentroll.

It frequently happens that several contiguous mouzahs belonging to the same persons and held by the same title, have been thrown into one, and measured as one, and received the names of the several constituent mouzahs. (D. S. O. Para. 7.) If the proprietors wish to separate these, and assign to each a distinct jummah, the case becomes simply one of Partition, and can be treated as such.

Directions. 202.

It may happen that a part of the land settled under one name, may be claimed in the Civil Court by another party as their rightful property under another name, and so decreed. The execution of the decree will also resolve itself into a simple case of partition. The Collr. will allot to the new Mouzah a fair portion of the jummah assigned to the whole, and the two Mouzahs, like the two parts of a divided estate, will occupy the position of the old mouzah.

Directions. 203.

Life Maaffees must be brought on the Rentroll as they fall in. Vigilance is necessary to prevent the concealment of lapses. The Tuhseeldars and Canoongoes should be furnished with lists of all such tenures, and should be held strictly responsible for reporting the lapses.

Directions. 204.

When Jungle Grants are allotted, each as taken up, and granted by Govt., will take its place on the Rentroll under such name as the owner may prefer.

Directions. 205.

V.—Removal of Mouzahs from the Rentroll.

When a whole mouzah is swept away by a river, it should be removed from the Rentroll, as it can never again be restored. Any land which may be subsequently thrown up by the river will be an increment to the mouzahs on the bank, which originally were behind the destroyed mouzah, and by its destruction have been brought in contact with the river.

When a Grant is resigned, or resumed, it may probably need to be removed from the Rentroll.

Directions. 206.

MOUZAHWAR PERGUNNAH REGISTER. RENTROLL.

Mouzah is defined in Para. 5. D. S. O. The best practical direction is to consider as a separate Mouzah whatever occupies a separate line in the General Statement of the Settlement.

Note, *Directions*. 235.

The principle of the two Registers is, that the *Malgoozaree* Register shews the Mehals in each Pergunnah, or Tuhseeldaree, arranged together according as they belong to the same proprietor, or body of proprietors; whilst the *Pergunnah* Register shews the Mouzahs as they stand grouped into pergunnahs, without reference to the distribution into Mehals.

Directions. 158.

In this latter Register, the Mouzahs will be arranged according to the lists for the compilation of which instructions are contained in Paras. 7 to 45 of D. S. O. The form of G. O. 1844, Appendix XXIV. may conveniently be adopted, and will possess this advantage, that it will be in accordance with all the other statistical details which may be collected under that scheme as a permanent record. It need not be quinquennially renewed. All particulars regarding the divisions of the mouzahs, and the alteration of the areas or jummahs of the mouzahs, will be readily found by referring to the general indexes in the Record Office. (Para. 136.) But it would be convenient to keep also a supplementary register, where a note in English may be made of each such change as it occurs. These notes should be numbered consecutively, and the exhibition of the number in the column of remarks, opposite the name of the mouzah in the Pergunnah register, will afford the clue to the record of the transaction. The form of Pergunnah Register shows the population, as well as other particulars. This is not required by XLII. 08. but is most necessary for the formation of a just estimate of the value of the village.

Directions. 235.

RESISTANCE to Magistrate, 200 Rs. to be levied by distress, commutable, if not realized, to 6 months. RESISTANCE.

C. 5. S. 26. XX. 17.

Person resisting M., and absconding;—Proclamation for one month. If he does not appear, M. may declare his lands forfeited, and lease cancelled; send precept to Collr. to attach them, and report to N. A. with complete copy of proceedings, who will either give orders, or report to G. G. in C.—(XI. 96. S. 26. XX. 17.) In modification of Secs. 2. 3. XI. 96. in cases of resistance, if M. thinks 200 Rs. commutable to 6 months, sufficient, he may give it.

C. 5. S. 26. XX. 17.

Moveable property which might otherwise be removed, to be at once attached by Darogah issuing, or serving warrant, on receipt of credible information that the party has absconded. Immediate information to be given to M. In cases of *Resistance of Process* the attached property to be sold in liquidation of fine. In *Evasion of Process*,

RESISTANCE OF SETTLING COLLECTOR.

RESISTANCE

it shall, at the end of 6 months, be at the disposal of Government, together with any land attached under the same circumstances.

C. 10, S. 26. XX. 17.

This applies only to persons *charged*, but *not* convicted of crime The property of a person absconding after sentence, and pending appeal, is *not* liable to forfeiture.

Con. 1124. Decr 29, '37.

Resistance of process is bailable, (S. 5. III. 04.,) and persons charged with it may appear by vukeel.

Con. 1216. May 17, '39

Resistance of process of one Court, within the limits and backed by another, is punishable by the latter within whose jurisdiction it occurred.

Con. 1115. Novr. 24, '37.

Resistance of Process *not* to be punished as Affray, that offence having its appropriate penalty.

Con. 549. April 30, '30. Con. 619 Jany. 21, '31.

M is bound to proceed as above (S. 26 XX. 17.) and cannot punish evasion of criminal process as contempt of Court.

Con 619. Jany 21, '31

Nor can he commit it to S. J

N. A. R V. 2. 225

Register to be kept of persons absconding and evading process. See "Absconding."

S. 9. III. 12 C. 144. Augt 16, '43.

If Landholder ordered to produce an offender under III. 12. requires assistance of Police, it is to be given,—and Police will take charge of offender.

C. 13. S. 26. XX. 17.

Police wounding, or killing, proclaimed offenders,—Guiltless.

C. 14. S. 26. XX. 17.

RESISTANCE of SETTLING COLLECTOR

RESISTANCE OF SETTLING COLLECTOR. Fine of 200 Rs., or 2 months in Civil Jail, in addition to the penalties prescribed for the offence itself.

C. 2. S. 24. VII. 22.

Collector cannot give orders to the Police except in very emergent cases, when M. should be immediately informed, but he can warn them of the probability of resistance when Darogah is responsible for keeping the peace.

Con. 1018. June 24. '36.

RESISTANCE OF CIVIL PROCESS.

RESISTANCE of SETTLING COLLECTOR.

In cases of simply throwing down landmarks, &c. &c. Collector to punish under VII. 22. and I. 47. But if the party aggressed upon should receive the least hurt, their opponents should be punished criminally by **M.**

The cognizance of Boundaries and Landmarks vested solely in Collectors, and boundary disputes cannot be taken up by **M.** under IV. 40. When **M.** has reason to apprehend a breach of the peace regarding a Boundary, he should certify the circumstances to the Collector, who will mark off the boundary, uphold possession, and himself punish any removal, or injury to the marks.

I. 47.

Resistance to Collector in Summary Suits, to be tried and punished by himself; except when actual breaches of the peace may occur, in which case the offence must be tried by **M.**

Con. 615. Decr. 23, '31. S. 4. VIII. 31.

Resistance in collection of Revenue—forfeiture of estate, or fine by G. G. in C.

Secs. 22. 24. XXVII. 03.

Resistance in Resumption proceedings; to be liable to fine of 500 Rs. by Board, leviable as arrear of Revenue, in addition to the penalties of XXVII. 03.

RESISTANCE of CIVIL PROCESS.

Civil Judge to dispose of resistance of his own Civil process, unless there has been a breach of the peace, when he should send the papers, without giving any opinion, to **M.** to be disposed of under the general Regulations. The Appeal would lie to **S. J.**

Con. 1033. Augt. 12, '36. 1115. Novr. 24, '37.

M. cannot order Police to break open a house to apprehend person rescued from Civil process. In such case the Civil Court should proceed against the offender under S. 25. IV. 93.

Con. 765. March 8, '33.

Civil Judge cannot call on **M.** to enforce his orders.

Con. 1209. May 31, '39.

Police cannot issue process on mere requisition of an Ameen.

N. A. R. V. 2. 225.

Resistance to persons legally authorized to distrain, even though the distress be levied in an irregular manner, is criminal, and punishable by imprisonment.

N. A. R. V. 1. 302.

Ditto to even fraudulent distraint.

N. A. R. V. 6. 49.

REWARDS.

REWARDS. REWARDS.—As Commr. is competent under S. 17. XVI. 10. and S. 15. XVII. 16. to authorize a reward for meritorious services in a trial before him, the **S. J.** has the same power.

C. 121. Octr. 5, '32.

Officers of Police entitled to 10 per cent. commission on stolen property recovered by them. S. 16. XX. 17. This does not extend to other individuals not being Police officers; though they may of course receive a reward, if thought proper.

Con. 381. April 22, '25.

S. J. has power to order distribution of commission to Police.

Con. 1136. March 9, '38. Con. 727. Octr. 26, '32.

In recommending Rewards for apprehension of offenders, a full report, together with copies, or extracts, of proceedings, showing the grounds for reward, to be forwarded to Supt. of Police.

C. 147. April 18, '15.

Supt. of Police may sanction reward of 100 Rs.;—and, on emergency, **M.** to offer the Reward, reporting to Supt. of Police for sanction.

S. 14. XVII. 16.

Inspector of Prisons can give reward of 100 Rs. to Guards and other public Officers for good conduct on the occurrence of breaches of Jail Discipline.

G. O. Novr. 13, '48.

See "Escape."

With reference to XVI. 43., (which repeals S. 2. 3. IX. 08. and S. 16. 17. XVI. 10. as to rewards being granted through **S. J.** and **N. A.**) Commr. of Police may offer reward of 100. Rs. for the discovery, or apprehension, of any person charged with a heinous offence. A reward above 100 Rs. must be submitted by Commr. to Govt.

G. O. March 19, '44.

In the Lower Provinces the Supt. of Police may sanction rewards of Rs. 500.—**M.** may discretionally offer rewards to the same amount, but should report his having done so to the Supt. of Police, who may ratify, amend, or annul any such offer as he may think fit.

Supt. of Police. No. 24 of 1843.

Offender proclaimed in one district, and apprehended in another; the reward may be paid by **M.** of the jurisdiction in which he is caught.

C. 15. S. 26. XX. 17. S. 15. XVI. 10.

Rewards for destruction of WILD BEASTS.

Full grown Tiger, or Tigress, 5 Rs.—Cub—more than one month old, 2-8.
Do. ———Bear,———— 5.
Do. ———Hyena,———— 3.
Do. ———Female Wolf—— 3.—Female Cub 12 annas.
Do. ———Male Wolf,—— 2.—Male Do. 8———

A special report should be made as to slaughter of bonâ fide Wild Elephant.

Lieut. Govr. to Commr. of Benares, July 25, '48.

RIVER SUPERVISOR.—ROADS, AND ROAD FUND.

RIVER SUPERVISOR—VIII. 24.

RIVER SUPERVISOR.

ROADS, AND ROAD FUND.—See S. B. IV. Sec. 19 ; also "Ferries," "Treasury," subordinate head of "Funds."

ROADS, and ROAD FUND.

Form of Remission of Revenue for Land taken for Roads.

S. B. May 4, '38.

The first object is to keep all the Roads in a fair state of repair. After this, any surplus to go to the further improvement of the chief lines. No expensive work should be undertaken, till the engineer has approved the line. On reference to Engineer, simultaneous information to be sent to Govt. through Commr. *to ensure Engineer's early attention ! ! !*

The first surplus should go to the *greatest* obstacles, such as marshes, sandhills, deep nullahs or rivers ; when these are mastered, it will be time enough to finish off the rest of the road.

Where bridges cannot be built, the Ferry Boats should be very good, the descents to the nullah smoothed off, and perhaps the bottom paved. A single obstruction left unremedied, may neutralize a whole line of beautifully finished road.

Generally speaking, bridges and drains are of more importance than raising and metalling.

No bridge, or masonry work of any size, costing more than 100 Rs. should be commenced without the approval of Engineer. (The limit of 100 Rs., being far too low, Commr. is authorized to use his discretion as to all works less than Rs. 500, referring them to Executive Engineer, or not, as he thinks fit. In general he will consult Engineer as much as he can. G. O. Augt. 23, '45.)

The Committee will keep themselves well informed of the state of the roads, both by personal observation, and the reports of travellers. A book should be kept and presented to all but dâk travellers for the insertion of their observations on the roads they have passed.

G. O. June 5, '44.

(It is very unfortunate that the engineers are saddled with such a mass of office accounts, that they have hardly time for objects requiring their scientific skill. There seems no reason why there should not be regular Accountants to check the accounts of the subordinates, and be answerable for the monies spent ; leaving the Engineers quite free to devote their whole time and energies to the scientific part of their profession, unhampered by the charge of an office, and heavy pecuniary responsibilities. As it is, our Engineers are greatly wasted, and kept plodding over accounts, when they ought to be marching all over their divisions, and really superintending the public works in progress. The Paragraph regarding them in the above G. O. is worthy of notice. Government are aware that they are so immersed in office work, that there is every probability of their not being able to pay attention to reference from the Road Committees ; and have therefore instructed the latter to report to Government when they make reference, "to ensure Engineer's early attention." This ought not so to be ; and would not be, under a better system. The Engineer ought to be the soul of all the public works in progress ; and so he would be, if freed from office accounts, and

ROADS, and ROAD FUND.

pecuniary responsibility. Let this once be the case, and the Engineer will soon outrun the Committees, and take a pride and pleasure in the public works of his division.

Depend upon it, all the paper checks in the world will not prevent gomashtahs cheating, when they know that the Engineer is tied by the leg to his office, and can only make a single flying visit in the course of the year. Give him the power of free locomotion for 6 months of the year, and the Roads, Bridges, and Public Works, will soon show a vast improvement.

As to mastering the "*greatest* obstacle first," I have acted upon it; but the results of my experience is, that the *second greatest* obstacles should be taken up first. A deep nullah, or broad stream, can have good ferry boats; whilst the smaller obstructions are impassable without boats, at the same time that they are not large enough for good boats. I would therefore, as a general rule, recommend that the gaps requiring bridges of from 30 to 70 feet waterway should be filled up first, leaving the *greatest* obstacles to follow.)

Police shall prevent all encroachments on the public roads, and at the same time report the circumstances of each case to **M**.

C. 5. S. 30. XX. 17.

When remission of Revenue may be claimed as compensation for lands taken by Government for the construction of Roads, form IX. to be adopted in submitting the claim for sanction. S. B. IV. 28. (See "*Compensation*.")

I would also observe, that there is a great tendency to spend all the money on the roads, used by the European gentry; whilst far more important roads, which are only used by Natives, are often totally neglected. This is not fair. The tax is raised from all the LANDHOLDERS of the district, and ought to be spent in the manner most beneficial to them. The metalling and bridging great Trunk Roads through a district, belongs more particularly to Government, and the general Ferry Fund.

It is also of great importance to notice the LEEKS, or bridle roads, throughout a district. These show the direction of traffic; and are often of far more importance than the registered roads. A bustling European planter is often of great use in pointing out these, if the Collector cannot himself notice them, when riding about his district. I have been often astonished, and ashamed, at the long lines of Carts and bullocks which I have met on some of these neglected thoroughfares. I now endeavour to pay particular attention to these Leeks, and bring the most frequented on the list of Roads, whilst all are so far smoothed down as to be passable for laden carts. The prosperity of a district, and the comfort of the people, depend much upon keeping up, and increasing these means of internal communication. The Mofussil members of Committee will naturally strive to draw as much disbursement as possible to improve the roads in their own vicinity; the Collector must be personally well acquainted with all the localities and the amount of traffic on the different roads and leeks, so as to distribute the funds fairly amongst them all, in proportion to their exigencies and importance. It is a highly useful and interesting department of duty.

Rules for the formation of Road, and Ferry Fund Committees, in N. W. P.

G. O. Feby. 10, '41.

Practical observations as to Kunkuring Roads.

G. G. May 22, '45.

No individual should be allowed to engage for more than one Ferry, for one year. In peculiar cases, M. may make a special report to Government through Commr.

G. O. Novr. 6, '47.

ROADS, and ROAD FUND.

Rules by Suptt. of Police, Lower Provinces, passed with the sanction of Govt.

1st. Committees to be formed in each District, for the management of Surplus Ferry Funds, for the promotion of the convenience and safety of travellers, and the facility of commercial intercourse.

2nd. Each Committee to consist of not more than 9 persons. M. and Executive Officer, to be ex-officio members. The remainder to be filled up by Suptt. of Police, subject to approbation of Govt.

3rd. Suptt. of Police shall be a Member, and preside when present. He shall also have a casting vote whether absent, or present, when opinions are divided.

4th. M. will from time to time convene Meetings of the Committee for the transaction of business, giving due notice to the Members.

5th. No meeting shall be held in absence of M.; but M. and one other member, or M. simply, may transact the business of the Committee, if other Members after due notice, fail to attend.

6th. M. may at his discretion, undertake any business which may be of such a nature as not to bear the delay of a reference to a meeting. He will, on all such occasions, report his proceedings at the next meeting.

7th. The whole country divided into Unions, among which the surplus Ferry Funds will be divided.

10th. Each Committee to keep a Book, in which will be entered Minutes of all its proceedings and Resolutions. The proceedings of each Meeting to be attested by the members present.

11th. Each Committee will apply the Funds assigned to it to the completion of new and the repair of old public works, in such manner as it may think fit, reporting at the close of each year, the manner in which its funds have been applied, and stating the works to which its attention will be directed in the year ensuing.

12th. Provided that no *new* work, estimated at more than 1000 Rs. shall be commenced without the sanction of Govt. obtained through the Suptt. of Police, who is empowered, when he may see fit, to authorize the commencement of any proposed work in anticipation of Govt. sanction.

13th. Provided also that no part of the Funds shall be expended on Station Roads, or Station improvements, without sanction of Govt.

14th. Each Committee is authorized to entertain executive establishments for carrying on public works, but not to a greater extent than ⅓th of its annual assignment, without the sanction of Suptt. of Police.

Suptt. of Police L. P. No. 2. Jany. 26, '48.

ROBBERY.

ROBBERY,—see "*Dacoits.*"

There appears to be no peculiar crime of "*Highway* Robbery," as C. 1. S. 3. LIII. 03, which defines the crime of Robbery by open violence, though it mentions robbery "on a highway," goes on to say "or in any other place whatever." The Clause is to the following effect:—

ROBBERY.

"Any person, or persons, who shall in the day, or in the night, go forth with any offensive weapon, or in a gang with or without an offensive weapon, with the criminal intent of committing robbery, and shall by force or intimidation rob, or attempt to rob, any person or persons on or near a highway, or on a river, lake or other water, or in or near a city, town or village, *or in any other place whatever;* or shall attack by open violence, and rob or attempt to rob, any dwelling house, or other house or building, or any tent, boat, or other receptacle of persons or property, *in which there may be any person or property* at the time of such robbery, or of such attempt to rob; shall be deemed guilty of the crime of Robbery by open violence."

C. 1. S. 3. LIII. 03.

Highway Robbery with attempt to murder, or with corporal injury endangering life;—transportation for life. Judge must refer to **N. A.** but may state any grounds for mitigation.

C. 4. S. 8. XVII. 17.

Robbery without aggravation, need not be referred, and is punishable by Judge with 14 years banishment, and 2 years for bents.

C. 5. S. 8. XVII. 17.

RUPEES.

RUPEES—see "*Treasury.*"

SALE.

SALE, *for arrears of Revenue,* see "*Land Revenue,* No. 7."

IN EXECUTION OF DECREE OF CIVIL COURT.

Act IV. 46.

Secs. 1. 2.—The portions of XXVII. 95. XXV. 03. IX. 05. VII. 25., regarding Sale in execution of Decrees, repealed.

Sec. 3.—In *Bengal,* attachments and sales of land, or of any interest in land, in satisfaction of decrees of Civil Courts, to be made by such Courts, or under their directions; and the Rules now in force for the attachment and sale of such real property as the Civil Courts are now authorized to sell in satisfaction of decrees, without application to the Revenue Authorities, to apply to attachments and sales made under this Act.

Sec. 4.—With this addition, that in applying for sale of estate or portion of estate, decree-holder must file an authenticated extract from Collector's Register specifying the Jummah of the estate, which shall be inserted in Notification of Sale.

Sec. 5.—Also, that the Purchaser at any such sale must deposit immediately in Cash, Bank of Bengal Notes, Postbills, or Government Securities duly endorsed, 15 per cent. on the amount of his bid; and in default of such deposit, such land or interest therein shall *forthwith* be put up again and sold. (The Collr. *immediately* on the failure of the Purchaser to make the deposit, should put up the property to sale again S. D. A. March 26, '48.) If the purchaser having paid the deposit required, shall neglect, or refuse, to pay the purchase money, within the period which may be stipulated, the deposit shall be forfeited and shall be applied as if it were purchase money and the land or interest therein, or such portion as may be sufficient to satisfy what

remains due, shall be again put up to sale, after due notification. (There is a flaw in this, as it enables parties to pay off the amount of decree in instalments of 15 per cent. with a vast amount of useless labour to selling officer, and his establishment. There appears no reason why the owner of the property should receive the forfeited deposit, instead of its being confiscated for Govt. ; and a new draft Act has been published, restoring the old rule of confiscating the forfeited deposit.)

In the Agra Presidency.

Sec. 6.—Attachments and Sales of land, or of any interest in land, in satisfaction of Decrees of Civil Courts, shall, (except in the case of land which the Courts themselves are now by law authorized to attach and sell,) be made by the Collector upon the requisition of Civil Court.

Sec. 7.—Such requisition to specify number of the suit, the Court which made the decree, the amount to be realized, the names of the parties, distinguishing those whose land or interest it is intended to sell, and the amount for which each is liable, if they are severally liable, and the land or interest which each is alleged in the Schedule of the party applying for execution, to be possessed of.

Sec. 8.—Collector shall issue Proclamation of any intended sale, 30 days at least before the day appointed for the sale, exclusive of the day of sale, and of the day on which Proclamation is issued ; and the Proclamation shall specify the name of person whose rights in certain land are to be sold ; the Jumma ; particulars of the property ; time and place of sale ; and amount due for which sale is ordered. Proclamation to be fixed up in a conspicuous place within village, or town, in which the land is situate, and in the cutcherries of Moonsiff, Judge, Collector, and Court from which requisition issued.

Sec. 9.—The provisions of Sec. 5. applicable to such sales in execution of decrees.

On receiving a requisition to sell, the Collector should advertise the right and interest of the Defts. as noted in S. 8. IV. 46.

He should also keep the Court duly informed of all the steps he may take.

S. B. March 18, '42.

On the day of sale, an extract from the proceeding of Settlement, exhibiting the Defendant's share and liabilities, together with a copy of the report, sent to the Court in reply to its preliminary inquiry, shall be laid on the table for the information of the public. Extracts from the Putwarree's papers of intermediate changes shall also be laid on the table. The Collector does not of course guarantee the title, but merely produces for general inspection that which was ascertained and recorded at the Settlement, and the changes subsequently notified. The Collector is to confine himself to furnishing the information contained in the records above stated, and is not to enter into any inquiry, or receive any report from any officer or person whatsoever, with a view to the supply of that which the above records may not contain. If the name of the Defendant be not found in the records, the Collector will make his return to that effect.

S. B. II. 155.

The circumstance of an estate not being recorded in the name of defendant, is *not* sufficient to warrant the Collector to decline bringing his rights to sale ; and if any claim is preferred, or objection offered, Collector should forward such claim, with any

SALE. evidence adduced in support of it, or which his records may supply, for the information and orders of the Court ordering the sale, staying his proceedings until further orders of the Court are received, as such claims come exclusively within the cognizance of the Court ordering the sale.

Con. 794. June 12, '33.

It sometimes occurs that through the mistake, or malicious design of the decree-holder, property is advertized for sale, in which the person against whom the Decree is issued, has in fact no right or interest, whatever. The sale in such case might occasion much alarm, and risk, to the real owners of the property; but the S. D. A. June 10, '42. and May 21, '47. provide for the prevention of such injustice. If Collr. has reason to suspect that such is the case, he will be careful to inform the real owner of the intended sale, and instruct him what steps he should take to prevent it. The Civil Court cannot set aside the Sale merely on a remonstrance from the Collr.; but if the party whose interests are effected, petitions them and prays an investigation, they cannot refuse to hear him.

Directions. 300.

RULES FOR SALE OF LAND UNDER IV. 46, by S. D. A. Dec. 14, '46.

1. Sales of land in satisfaction of decrees of Court shall be held by Collector on the 20th of each month.

2. Whenever a Civil Court has occasion to bring to sale landed property paying Revenue to Govt., not being such as it can sell itself without reference to Collector, the Court enforcing decree shall transmit direct to the Collector a requisition to that effect in a Roobakaree, embodying therein the information required by S. 7. IV. 46, according to form A.

3. Where it appears expedient to attach lands, when from the season of the year, or the representations of parties interested, or on other grounds, there is reason to apprehend embezzlement of the produce, the Court shall address an injunction accordingly to the Collector, who shall immediately attach and keep charge of them under the rules in force for the attachment of land for arrears of Revenue, for such period as the Court may direct. The surplus collections, after paying the expenses of attachment and the instalments of land revenue which may fall due during the period of attachment, shall be held absolutely at the disposal of the Court.

(Under V. 27. the Civil Courts are bound to make all attachments of landed property through the instrumentality of the Collr. *Entire* joint undivided estates may be thus attached under S. 26. V. 12. whenever disputes amongst the proprietors produce inconvenience to the public, or injury to private rights. So also portions of estates may be attached under C. 2. S. 5. II. 06. It must be remembered, that whenever a portion, or the whole of an estate is attached by order of the Civil Court, Sale in realization of Balance of Revenue can only take place *at the end of the Fuslee year,* under S. 10. I. 45.

Directions. 297.

Attachment also sometimes takes place to prevent waste preparatory to the Sale of land in execution of Decree of Court. In all cases of Attachment, the Collr. and his Agent stand in the place of the proprietor, and possess no other powers than those

which he possessed. The remarks in Paras. 72—76, see "Land Revenue, Kham Tuhseel" are applicable to attachment under order of Court. SALE.

Collr. would be warranted in detaining the Rubbee collections to make good the Rubbee kists. But if through error, or inadvertence, this has not been done, the mere fact of the employment of the Collr. in executing this process of the Court, cannot bar the claim of the Govt. to the full demand.

Directions. 298.)

4. The Collector on receiving requisition for sale, shall verify the entries regarding the name, jummah, and position of the Mehal; and, finding them correct, shall immediately of his own authority issue proclamation as directed by Sec. 8, in the form **B**. It shall, however, *rest with the Collector* to determine with reference to the amount to be realized, whether the whole, or a portion, and what portion of the property alleged to be possessed by defendant shall be advertised for sale, and to form the said property into one or more lots, and to sell only such lots as may be sufficient to realize the decree. If any error in the entries regarding the name, jummah, and position of the Mehal in which the property ordered for sale is said to be situate be discovered, reference shall forthwith be made to the Court, with a view to its rectification. (The Civil Court cannot give orders to sell only a specified amount *in part* of a Defendant's share, as it *rests* with Collr. what shall be sold. Commr. 5th Division. Augt. 30, '48.)

5. On the day of sale it shall be the duty of Collector to lay upon the table for the information of the public, an extract from the record of settlement, exhibiting the nature and extent of the rights, interests, and liabilities appertaining to the defendant, together with an account showing so far as may be ascertainable from the records of his office, the arrear of revenue or other public demand claimable from the Mehal in which the property is situate. If the name of the defendant do not appear either in the Record of Settlement, or in the Putwarree's Register of intermediate mutations, which is also required hereby to be laid on the table at the time of sale, the Collector shall produce for the information of intending purchasers the Report of his Record-keeper to that effect, and shall attach the same to his proceedings.

6. Objections against *proposed* sales shall be preferred to the Court enforcing the Decree, and shall be disposed of as heretofore, agreeably to C. 4. and 5. S. 4. VII. 25.; and it *shall* NOT *be lawful for the Collr. to postpone the sale*, save under injunction from the Court, received prior to the lot being knocked down; or on unconditional payment of the whole amount to be realized by sale; or on receipt in full of Decreeholder; or on the occurrence of the contingency contemplated by S. 13. I. 45. the provisions of which are hereby declared applicable to estates under these rules. Should payment of decree, or receipt of decreeholder, be received before the lot is knocked down, Collr. shall immediately report the circumstance for the information and orders of the Court, and shall postpone sale pending further instructions.

7. If the Court overrule the objection, then the sale shall be postponed for the period allowed by existing rules, (see C. 5. S. 3. VII. 25. S. D. A. 9., July 19, '33. Cons. 844. and 877. and S. D. A. 26., Augt. 28, '43.) for the preferment of a miscellaneous appeal from the order overruling the objection. (There is no necessity for repetition of the Proclamation for the full period of one month. It is legal to give notice that the Sale will take place the next Sale day. S. D. A. March 16, '48. S. B. April 25, '48.)

8. Secs. 31. and 32. I. 45. are applicable to sales under these rules; and in case of

SALE. the sale of any right or interest in a Putteedaree estate of the nature contemplated by I. 41. the provisions of Sec. 4. are applicable.

9. The deposit of 15 per cent. on the amount of the bid having been made good immediately on the conclusion of the sale, the remainder of the purchase money shall be paid before sunset of the 10th day from sale, reckoning that day as one of the ten.

10. The sum demanded being paid, the Collr. will consider the sale completed, and report to the Civil Court the result of their orders for sale, retaining in deposit the amount realized; or, if the purchaser shall neglect, or refuse to discharge the purchase money within the period of 10 days, the lot, or such portion thereof, as may be sufficient to satisfy what remains due, shall be immediately notified for resale agreeably to Sec. 8. and Para. 4. of these rules, without previous reference to the Court, to which it is only requisite to give prompt information. (In this case a repetition of the Proclamation for the full period of one month is *necessary*, the sale having already been *concluded*, and having now to take place de novo. In a sale simply *postponed*, as noted above, it is sufficient to give notice that the sale will take place next Sale day. S. D. A.

The balance of the Purchase money may be paid at the Tuhseeldarree within which the property is situated; but the term of payment provided in Sec. 9., namely, 10 days, will of course be observed; and failure of payment will invalidate the sale under S. 5. IV. 46. S. B. Augt. 11, '48.)

11. Sales of Lands in execution of decree shall be held to be final after the expiry of 30 days from the day of sale, provided that intermediately no objection be offered to the legality of the sale: objections so preferred shall be disposed of by the Courts agreeably to S. 5. VII. 25., and in the event of their rejection, the sale proceeds shall be kept in deposit in Collr.'s treasury, until the period allowed for the institution of a summary appeal from the order overruling the objections, shall have elapsed.

(The procedure of the Sale Law admits of no excuse. So far from sickness being an excuse for an omission on the part of a Purchaser, &c. &c. his death even could not be received in the plea of his heir as a sufficient ground to pardon the omission. Commr. 5th Division Feby. 2, '48.)

12. As soon as a sale has become final, it shall be the duty of the Civil Court to give intimation thereof to the Collr., and direct him to pay the amount realized by the sale to the person entitled to receive it, on application made to that effect; and Collr., after fulfilment of Court's instructions, shall transmit the receipt to the Court. Purchasers at such sales shall likewise be put in possession of the purchased property by Collr., under instructions to that effect from the Civil Court; but if the Collr. experience any difficulty in giving possession under the orders of Court, he shall immediately certify to the Court the precise nature of the difficulty, and shall be guided by such instructions as he may receive. If he consider these instructions insufficient to enable him to give effect to the orders of the Court, he shall refer the case to the Commr. of the Division, who will, if necessary, make a further reference to the Sudder Board.

(In all clear cases, Possession of the Auction Purchaser, and Mutation of Registry, will follow as a matter of course. In dubious, or disputed cases, reference will be made to the Civil Court for orders, which will be carried into effect, except in those rare instances where the Collr. may deem it necessary to certify the case to Commr.

Commr. 5th Division, April 9, '49.

In case of discovery of error in Collr.'s record *subsequent* to Sale, he should certify to Civil Court, and be guided by the instructions he receives. SALE.

Commr. 5th Division, Augt. 30, '48.)

13. The Collr. in the performance of these duties, is a mere ministerial officer of the Courts. The Judge shall represent any delay or carelessness to the Commr., who will call upon Collr. for an explanation, and use every effort to remove cause of complaint.

14. All sales made in execution of decrees of Court being declared by S. 10. IV. 46. to be of the nature of private transfers, no act of the Collr. under these rules shall be considered to bar the right of Govt., to recover its demand by any of the authorized means of realization. But *Collr. shall not be competent to appropriate* any sum realized by him under these rules, to the liquidation of any outstanding demand against the estate, except under an injunction to that effect from the Civil Court, or, as provided for in Para. 3. of these rules, it being understood that in every case of sale, it is a condition of the sale that the purchaser succeeds to all the liabilities of the former proprietor, and the claims of Govt. upon the estate are in no way affected by the sale.

15. All rents due on the date of sale, or falling due after that date, shall be claimable by the purchasers only, and any receipts for such rents from the former proprietors shall not be deemed legal.

S. D. A. Decr. 14, '46.

These rules possess the force of Law, and must regulate the proceedings of Revenue Officers.

S. B. Feby. 5, '47.

On the completion and confirmation of the sale, the Collector shall give notice of the change of property by proclamation in the village, and shall cause the name of defendant to be struck out of the Putwarree's record of shares, described in III. 220—230., and the name of the purchaser to be inserted.

S. B. II. 156.

In *imperfect Putteedaree* estates, the proclamation will declare the right purchased in the land held in common ; and the purchaser shall be put into distinct possession of the fields held by defendant.

S. B. II. 158.

Where the tenure is *pure Putteedaree*, the purchaser shall be put in possession of the fields registered as possessed by defendant.

S. B. II. 160.

Still, *in every case*, the advertisement of sale shall be for the right and interest of defendant. (Sec. 12, of the original letter of the S. B. dated July 5, '39, from which the printed rules have been taken.)

The property of defendant being that which alone is sold, the circumstance of his having held the office of Govt. Lumberdar does not entitle the purchaser to become Lumberdar.

II. 161.

SALE.

The office becomes vacant, and must be filled up in the mode fixed by the act of Settlement.

II. 162.

If the mode fixed be the votes of the sharers, the purchaser will have the vote attached to his share.

II. 163.

If defendant be sole owner of the village, the purchaser will be recorded as Lumberdar of course, there being no one to contest the office.

S. B. II. 164.

The principle of the above rules to be followed in all other kinds of sales. The same papers are to be required from the records, the same documents to be produced at sale, and the same processes of giving possession and recording right, are to be followed.

S. 17. S. B. July 5, '39.

Commrs. sometimes interfere in, and withhold confirmation of sales in satisfaction of decrees of Court. This is prohibited. It is incumbent on Commrs. to confirm all such sales, if conducted in conformity with established rules, when not otherwise instructed by the authority from which the order for sale proceeded, and without interfering in any way with the Court's power of cancelling under VII. 25.

It has been ruled by the **S. D. A.** that a decree-holder purchasing property sold by public auction in satisfaction of his decree, may file his receipt to the extent of his decree, in lieu of paying the whole amount of purchase money; provided, that the arrangement do not interfere with the equal claims of other parties; and that, as respects the delivery of possession, the same rules are observed in regard to him, as would be applied to any other purchaser; and that the demands of Govt. on the estate for Revenue, be previously settled.

S. B. II. 148. S. D. A. Jany. 18, '39. S. B. Jany. 25, '39.

With reference to the above rule, a decree-holder purchasing his debtor's property at sale by Collector for a higher sum than the amount of his decree, must deposit 15 per cent. on the whole amount of the purchase money, or the balance in full; or should the balance above the amount of his decree not be paid, the sale falls to the ground, and the purchaser forfeits the earnest money on the sum total bid by him.

Con. 1350. Augt. 5, '42.

With reference to the note to S. 19. Schedule A. X. 29. the deeds of Auction Sales, whether on Decree, or for Revenue, should always be engrossed on stamped paper of the prescribed value, the price of the stamp being realized from purchaser with purchase money.

S. B. Decr. 17, '41.

Collector should be careful to collate the Bynameh with the Lotbundee, and account sale previous to attesting and delivering it to the purchaser; and will be held individually responsible for any claim which the purchaser may establish in the Courts, on the ground of any mistake.

S. B. II. 125.

SALE.—SALT AND SALTPETRE.

SALE.

Whenever a Decree holder fails for the period of 6 weeks in any process necessary for the execution of his decree, Collector should strike the case off his file, reporting that he had done so to Civil Court.

S. B. April 21, '43.

Should no bidder appear at sale, Collector may issue a second advertisement of sale after 15 days, without reference to Civil Court.

S. B. June 27, '43.

The purchaser at an Auction Sale has no ground to be indemnified by a decree-holder for the loss which his having purchased on a bad title may occasion him. Such purchases are made at the sole risk of the party purchasing, who has every opportunity to enquire into the title of the party whose rights are to be sold, and their actual extent and value. If he cannot satisfy himself about these matters, he had better abstain from purchasing.

S. D. A. May 26, '47.

In Civil Court Sales, no new objection to be entered into after the expiry of the 30 days from date of first proclamation.

C. D. A. 821. June 11, '47.

SALT and SALTPETRE.

SALT and SALTPETRE see "Customs."—XVI. 29. II. 38, and so much of IX. 10, and of other Regns. as affects Salt and Customs in the N. W. P. repealed.

Sec. 2. On the Import of *Salt* of all descriptions, a duty of 2 Rs. a Maund ; and a further duty of 1 Rupee per Md. if sent eastward of Allahabad. (Reduced to 12 annas by G. O. June 17, '47, and to 8 annas by G. O. April 19, '49. No alteration of this total duty to Rs. 2 8 As. on Salt passing to the eastward of Allahabad, to be made before April 1, '54 ; and no reduction of the duty of 2 Rs. on Salt passing the N. W. Frontier line will take place without 6 months notice.)

Sec. 3 The Governor may from time to time issue orders, which shall have the force of law.

Sec. 4. The manufacture of alimentary Salt throughout the N. W. P. without the express sanction of Government prohibited. Any person engaging in the manufacture of such Salt, or preparing, or causing to be prepared, works for the manufacture of such Salt without sanction ; and all Zumeendars, or other Proprietors of land, or their Agents, conniving at such illicit manufacture ; shall on conviction by M. be punished by fine of 500 Rs. commutable to 6 months, with or without hard labour ; and all works at which such manufacture shall have been conducted, or which are designed for such manufacture, shall be destroyed, and any salt which may be manufactured or stored thereat, shall be seized and confiscated.

Sec. 5. It is lawful for Collectors of Customs, and Collector of Revenue, to destroy all works for the manufacture of Salt, and to seize the Salt stored thereat, and to apprehend the persons concerned in the manufacture thereof, and make them over for trial to M.

Sec. 7. All persons evading, or attempting to evade the payment of the duties imposed by this Act ; and all persons aiding, or abetting such attempts or evasions, or in

SALT and SALTPETRE.

any manner acting in contravention of this Act, or of any order issued under the provisions thereof; and all Zumeendars and other Proprietors, and their Agents, who shall wilfully connive at such attempts, or aid such acts, shall on conviction by M. be punished by fine of 500 Rs. commutable to 6 months, with or without, hard labour.

Sec. 8. Officers of Customs can make search.

Sec. 9. Whenever any articles or goods are seized or detained under this Act, the Collector of Land Revenue, or Customs, shall, with all practicable expedition, report the case for the determination of the Commr., who shall confiscate such articles or goods, or impose such lesser penalty in lieu thereof, as he may think fit.

Sec. 10. Officers of Customs can apprehend on reasonable grounds of suspicion, and make over party to M. for trial.

Sec. 11. Officer of Customs *searching* without reasonable grounds of suspicion, shall upon conviction before M. be punished with fine of 250 Rs. to be paid over to party aggrieved; or, on non-payment, with 3 months imprisonment. Ditto *apprehending* any person, 500 Rs. ditto, or 6 months.

Sec. 12. M. to try all such charges, under the ordinary appeal.

Sec. 13. Police and Revenue Officers to assist Customs in carrying out this Act.

XIV. 43.

Secs. 49. 50. 85. 93. X. 19. and so much of S. 48. as affects the Importation of Salt from the N. W. P. into the other provinces of the Presidency; and also S. 2. X. 26., repealed.

No Customs duty shall be leviable upon Salt imported in N. W. P. from the other Provinces of the Presidency.

XVI. 48.

Police officer seizing Salt without orders; to be dismissed, and liable to Civil suit for damages.

C. 8. S. 29. XX. 17.

The following RULES, published under sanction of Govt., to have the force of law.

Persons wishing to manufacture Saltpetre, to inform Tuhseeldar, and Collectors of Revenue and Customs, of the number of works, and of the places where manufactured.

Not doing so, on conviction before Collr. of Revenue liable, subject to confirmation by Commr., to fine of Rs. 500 for each offence, or 6 months without labour.

Persons removing, or attempting to remove, or concealing Alimentary Salt made in the manufacture of Saltpetre, or practising any deception, to be liable to the penalties of the Act.

S. B. Octr. 17, '43.

To prevent importation of alimentary Salt mixed up in despatches of crude Saltpetre, it is ordered, 1st, That crude Saltpetre should only be brought across the Frontier Line by open Posts, and under Maaffee Rowanuh (Form C. 24. Feby. 10, '44.) All crude Saltpetre brought across the line in other manner, to be sent to Customs Depty., who will charge full duty of 2 Rs. per maund on all Muriate of Soda it may contain. If the duty be not paid in a month, despatch will be confiscated in the usual manner. The Carriage is *not* to be confiscated, or suffer unnecessary detention.

SALT AND SALTPETRE.

2nd. At open chokee Officer will select specimen, and send it to Customs Depty., allowing the despatch to pass on without further question, if it correspond with the rowannah. Depty. will analyse specimen, and levy duty of 2 Rs. per maund on all the Muriate of Soda above 20 per cent. of the entire despatch. Until this be paid, he will refuse to grant any further Maaffee rowannahs to the importer of the despatch, or on his behalf. No Maaffee Rowannah is transferable.

3rd. Depty. to report every 6 months the quantity and quality of crude Saltpetre which may pass over his line.

S. B. Jany. 26, '49.

A quantity of Alimentary Salt, more or less pure, is necessarily produced in making Saltpetre. Act XVI. 43., gives no power of interference with bonâ fide Saltpetre works, notwithstanding the necessary formation of alimentary salt in the process of manufacture, nor can the salt so produced be seized, or taxed. If the manufactory of Saltpetre be a mere fraudulent pretext, or if the impure alimentary salt necessarily produced be purified, the manufacturers become liable to all the penalties of the Act.

Great care is necessary in discriminating between bonâ and malâ fide Saltpetre works; and to avoid all unnecessary annoyance to the fair dealer. The bonâ fide manufacturer of Saltpetre may always secure himself from annoyance, by lodging information with Collr. of position, number, and extent of his works, and the quantity of Saltpetre they are calculated to produce; and by allowing free access to Govt. Officers. When such information has been lodged, protection should be granted, and continued so long as fair dealing is maintained. When false dealing is suspected, no penal proceedings should be adopted against such works, without one week's previous notice to the manufacturer, that the protection is withdrawn, and the penalties will be enforced. Information to be immediately given to S. B. of all protections thus granted and withdrawn.

G. O. 617. Feby. 10, '44. S. B. Feby. 23, '44.

Salt made in the course of manufacturing Saltpetre must be destroyed, (a sad waste.)

S. B. March 19, '44.

Scraping a salt chur to collect salt earth, is not punishable under S. 3. X. 26.

Con. 1211. April 19, '39.

Cultivating Salt lands without leave, Fine of 500 Rs. besides action for Damages.

S. 12. I. 24.

The Fine commutable to imprisonment.

Con. 388. June 3, '25.

Resistance of Salt Officer;—200 Rs. from M., besides being liable under general Regns. for any breach of the peace.

S. 56. X. 19.

Salt Officer embezzling salt, to be punished as for theft.

S. 64. X. 19.

SALT and SALTPETRE.

Charges against Salt Officers, and any case of adulteration of salt, cognizable by M.
S. 96. X. 19.

Any person having adulterated salt in his possession ;—The salt to be confiscated, a fine of 10 Rs. per maund levied, commutable to 6 months in Civil jail.
S. 77. 78. X. 19. Con. 1135. March 2, '38.

Falsification of Salt Rowannahs, &c. &c, forfeit of 500 Rs. on every hundred Maunds of Salt specified in the said rowannahs.
S. 43. X. 19.

Whenever any Salt Agent shall be desirous of seizing contraband salt, he shall send for the nearest Police officer, who shall be present to witness the seizure of the salt, or the forcible entrance into the house in which the salt is stated to be.
S. 3. 4. 5. XXIX. 38.

Wilfully false information causing *search* of premises ;—2 years, and 500 Rs., to be levied by distress, commutable if unrealized, to 6 months more.
S. 23. XXIX. 38.

Salt Officer vexatiously seizing goods, arresting, or detaining under pretence of searching for salt ;—6 months, and 200 Rs. or 6 months more.
S. 22. XXIX. 38. S. 11. XIV. 43.

Kharee Noon is not taxable, and allowed to proceed under passes.
S. B. Augt. 21, '40.

Ground required for Salt, or other public purposes, see "Compensation."
Deposit of Salt with Custom's jurisdiction, rules for.
G. O. Gazette of Feby. 23, '47.

SAYER.

SAYER see "Landholder—Rights."

SEARCH.

SEARCH.—Police should not search any building for stolen property, unless a list of the articles missing be delivered, and a written application made by the prosecutor ; or a special order received from M.
C. 55. July 23, '30. C. 2. S. 16. XX. 17.

Search to be made in the day, in the presence of 3 witnesses, unless M. order it to be made immediately.
C. 5. S. 11. I. 11. C. 5. S. 16. XX. 17.

In searching, the surreptitious introduction of articles to be carefully guarded against ; and the prosecutor, or informer, shall not be admitted unless previously searched.
C. 6. S. 16. XX. 17.

SEARCH.—SECURITY.

SEARCH.

Person not able to give a good account of property found in his house, to be forwarded with the property to M.

C. 8. S. 16. XX. 17.

Whenever suspicious property may be discovered, and the possessor shall be unable to shew that it has been lawfully acquired, notice shall be publicly given of the circumstance for 6 months, and, should no claimant appear, the property shall be confiscated.

C. 8. S. 11. I. 11.

When the search is completed, all articles of value and of small bulk to be sealed up in a Pitarrah, or bag ; and each article should have a distinct number affixed to it, which shall be adverted to on the trial.

C. 11. S. 16. XX. 17. C. 276. May 16, '23.

Any person finding suspicious property on his premises, to convey it within 24 hours to Police station.

C. 15. S. 16 XX. 17.

Dwelling houses shall not be forcibly entered, except when a person charged with heinous crime may be concealed therein, and refuses to deliver himself up.

C. 5. S. 25. XX. 17.

All *unclaimed* property sent in by Police, to be disposed of by M. See " Property."
All *lawaris* property, of persons dying intestate, to be sent to Civil Judge.

C. 7. S. 16. III. 03. S. 16. XX. 17. C. 3. Novr. 17, '37.

Police *entitled* to 10 per cent. on all property recovered ; a part of which may be sold to make good the commission.

C. 17. S. 16. XX. 17.

SECURITY.

SECURITY of all persons in charge of Govt. money to be revised on Jany. 1st of every year, and annual certificate of such revision to be forwarded.

Board of Customs, Salt and Opium, Augt. 10th, 1831. C. 216. Jany. 20, '37.

Officers vouching for sufficiency of security, responsible for safety of the funds.

C. 171. July 3, '35.

Heirs of Suretics answerable ; but this should be inserted in the bond.

C. 74. Augt. 30, '10.

When Property included in a Security Bond is transferred, Collr. is bound to register the transfer, on proof of the fact of its having taken place ; but he is fully authorized in his proceeding, to administer a caution, or denounce a fraud. Any number of such transfers, so long as the Security bond is not cancelled, can have no effect in releasing the pledged property from responsibility. The Sale would be carried into effect just the same as if no transfers had been attempted.

Commr. 5th Division. May 31, '48.

SECURITY.

SECURITY.

All security bonds to be very carefully executed, some head officer being made responsible for their correctness.

S. B. April 10, '38.

All security bonds to be duly registered, which is indispensable to their acceptance as good and valid.

C. D. A. 903. June 19, '46. C. 136. May 2, '43.

Tuhseeldars only required to give *Hazirsaminee.*

S. B. April 15, '34.

Oordoo form of Judicial Treasurer's security bond, with rules.

C. 188. Octr. 25, '44.

Security under IX. 19, no longer required from inhabitants of Calcutta, as by XXIII. 40, property in Calcutta can be seized under process of Mofussil Courts.

XV. 41.

Salt and Opium are branches of the Territorial Revenue, and have nothing to do with the Commercial concerns of the Hon'ble. E. I. Compy.!

Board of C. S. O. June 18, '49.

Security bonds, besides the hypothecation of particular property, should also contain a general engagement on the part of the surety to be answerable also in his person and remaining property for any default.

S. B. Decr. 6, '44.

Before accepting as security property situated in Milty. Cantonments, Revenue Officers will be careful to see that the hypothecation is duly registered in the Brigade Major's office, and receives the consent of the Comdg. Officer.

S. B. May 25, '47.

No shares in any private Bank or Joint Stock Company whatever, to be accepted as security from public officers of Govt.

G. O. June 1, '47.

Security Bonds for the personal appearance of Native Officer under S. 2. XXXIII. 03.

Also Do. —— Do. —— in which property is specially pledged to Govt., or by which the amount to be recovered is unlimited, as required to be filed for the due performance of the office of Treasurer, should be written upon *plain* paper, thus rescinding the order of the Agra S. B. of 23rd Augt. 1842, and laying down the general principle, that Security Bonds given by Native Officers of Govt. on account of matters exclusively between Govt. and themselves, come under the second exemption of No. 12. Schedule A. X. 29.

The Security Bonds covered by No. 13. Schedule A., and No. 1. Schedule B., which are properly charged with a stamp duty of 8 annas, are those in which the interests of a third party are directly concerned, and which are taken, either by order of a Civil or Criminal Court, or of a Revenue Officer acting judicially.

Board of C. S. O. April 19, '49.

SECURITY.

The Agra S. B. obliged to back this construction. "As, under Con. 1331. April 15, '42., the opinion of the Board C. S. O. is conclusive, Security Bond executed by, or on account of Officers of Govt. for due discharge of their office, come under the 2nd exemption of No. 12, S. A. X. 29. Security Bonds for personal appearance under S. 2. XXXIII. 03., and Bonds pledging property to Govt. as security in situation of pecuniary responsibility, are included under this rule; and all such may henceforth be received upon plain paper.

S. B. June 12, '49. Septr. 7, '49.

Security in Criminal Cases.—Whenever a person is convicted of any Breach of the Peace, or of assembling armed men, or taking other unlawful measures, with the evident intention of committing the same; M. may take a Mochulka to keep the peace for one year, in addition to the specific sentence.

C. 1. S. 2. IV. 25.

See "Mochulkas," "Oaths."

In cases of an aggravated nature, wherein it may appear necessary to require Security for keeping the peace, in addition to the Mochulka of the party, it is competent to the Court passing the final sentence to direct the same, and to fix the amount of the Security Bond, which should never be excessive, but such as it would be proper to enforce; with a provision, that if Security be not given, the party required to find Security shall be kept in custody for a year, if the order be by M.; or for 3 years, if by S. J. or N. A.

C. 2. S. 2. IV. '25.

VIII. 28, does not interfere with the above power. M. is competent to punish to the full extent of that Regn., and, *in addition*, to require security, and give a year in default, provided the whole term does not exceed 3 years.

Con. Gazette, May 3, '42.

The responsibility of Sureties must be fixed for a term corresponding with the term of detention in default of giving security.

S. 5. IV. '25.

Sureties may at all times obtain their discharge by delivering up the party for whom they stood surety.

C. 74. Augt, 30, '10.

Or by reporting in time their having returned to bad habits, and proving to satisfaction of M. that they have used every exertion in their power for the apprehension and surrender of such individuals.

S. 7. VIII. 18.

Sureties for appearance at Sessions, not producing the party, penalty to be enforced by S. J. to whom the case should be reported; or they should get 6 months in Civil Jail.

S. 4. VI. '18.

SECURITY.

SECURITY. Security Bonds taken by Police, to be on unstamped paper.

Con. 710. Augt. 10, '32.

Security Bond, if the amount be not paid to M. on demand, to be put in execution by the usual process for the recovery of money from the Civil Court.

C. 70. April 27, '10. Con. 1233. Augt. 9, '39.

Any person who shall appear, from the evidence in any case, to be of a notoriously bad character, independent of any specific charge on which he may have been tried and acquitted; to be detained for Security for a specific time.

S. 2. 3. VIII. 18. Con. 823. Augt. 30, '33.

Any notorious robber, of a character so dangerous as to render his release without Security unsafe; to be detained for an indefinite period, for specific Security, and his case revised every 3 years.

S. 4. 10. VIII. 18. S. 1. III. '19.

Any person on whom a Send Katee, or Suburee, may be found, to be detained for Security for good behaviour.

S. 6. I. '11.

No person to be confined in Jail on a requisition of security for good conduct, *without proof of recent circumstances* warranting the imputation of dishonest livelihood at the time of apprehension.

Con. 9. Septr. 26, '28. Con. 26. May 15, '29.

Whenever M. considers it necessary to demand Security for a period exceeding 12 months, the case should be referred to S. J.

Con. 517. Augt. 7, '29.

If S. J. considers a prisoner a notorious robber, of desperate and dangerous character, he can demand security, under S. 10. VIII. 18. and S. 2. VII. 31., and in default detain him in confinement.

Con. 771. March 22, '33. Con. 823. Augt. 30, '33.

He can also direct an investigation into character, as a preliminary to the call for security.

Con. 1180. Octr. 19, '38.

Assistant, even with special powers, cannot commence an enquiry into the character of a prisoner, made over to him for trial on a specific charge; or demand security.

Con. 548. April 23, '30.

Prisoners detained for Security for good behaviour, cannot be permitted to pay a fine in lieu of labour.

Con. 881. April 18, '34.

They may be worked on the roads, but not sent out of the District. SECURITY.

C. 72. Augt. 2, '10. Con. 160. May 20, '14.

Prisoner detained for security escaping from Jail ;—2 years, and one more in lieu of bents. S. 2. II. 34. Labour commutable to fine.

Con. 1215. Augt. 1, '39.

Prisoners detained for security, shall not be kept beyond the specific period of their sentence.

Con. 250. March 29, '22.

The validity of security is not affected by the Surety's residence in any other Zillah.

Con. 920. Decr. 5, '34.

Penalty of security bond can be realized from estate of deceased surety; but his heirs may obtain a discharge by delivering up the individual.

C. 74. Augt. 30, '10. Cons. 734. Novr. 9, '32. and 1233. July 19, '39.

When S. J. from proceedings before him shall consider it unsafe to release any notorious robber without security, and who, therefore, in default of giving security, should be confined indefinitely, he shall declare the same, and fix the amount of security, and order that if the prisoner cannot furnish security within 3 years, he shall be again brought before the S. J. who shall determine whether he should be again remanded, either on the same terms as before, or on any modified terms.

C. 1. 2. S. 10. VIII. '18.

It is not competent to S. J. to add a demand of security to a specific sentence passed either by himself, or by M.

Con. 1195. Decr. 16, '36.

Demand for security not exceeding 1 year, not to be revised by S. J. except upon appeal; but cases demanding security for more than a year must be submitted for confirmation to S. J. who is competent under C. 2. S. 9. VIII. '18, to modify, or annul the order of M.

C. 113. July 1, '42.

Act V. 48.

1. S. 4. IV. 25. is repealed.

2. It shall be lawful for M. and J. M. to take Mochulkas in the form annexed to this Act, as well from British Subjects (Quere "European?") as from other persons, in all cases wherein it may appear just and necessary to require them for the maintenance of the peace in their respective jurisdictions, although the party to be bound in such recognizances may not have been convicted of any specific offence, provided that the amount of the recognizance in all such cases shall be proportionate to the condition in life of the said party, and to the circumstances of the case.

3. In cases of an aggravated nature, wherein it may appear necessary to require security for keeping the peace in addition to the recognizance of the party, it shall be

SECURITY. lawful for M. to direct the same, and to fix a reasonable amount for the Security Bond, to be executed in the following form by the surety, or sureties.

"Whereas ————, inhabitant of ———, has been called upon to give security to keep the peace for the term of ————, I hereby declare myself surety for the said ————, that he shall not commit any act that can occasion a breach of the peace during the said term. And in case of his making default therein, I hereby bind myself to forfeit to Govt. the sum of Rupees ————.

Dated ————, Signed ————.

4. Whenever it shall appear to M. that the period for which the party should be bound to keep the peace with, or without additional security, need not exceed *one* year, it shall be lawful for him, without reference to superior authority, to give directions accordingly, and in default of such recognizance, or additional security, to commit the party to Civil Jail until he shall do what has been required of him.

5. Whenever it shall appear to M. that the period ought to exceed one year, he shall record his opinion to that effect, with an order specifying the amount of recognizance and security, as well as the number of sureties, which should in his judgment be required, and the period for which the recognizance and security should be required, which shall in no case exceed 3 years. If the party shall not furnish the recognizance and security so required, the proceedings shall be laid before S. J. who, after examining them, and calling for any further information which he may think necessary, shall pass orders on the case, confirming, modifying, or annulling the orders of M.; and if the orders so passed by S. J. confirm to any extent the requisition for recognizance, or security, the S. J. shall direct M. to commit the party to the Civil Jail until he shall do what has been required of him.

6. Provided that no party shall be kept in prison under this Act for a longer period than that for which the recognizances and security have been required from him.

7. The provisions of Sec. 5, 6, 7, VIII. 18, shall be applicable to all persons confined under the foregoing provisions of this Act, and to all sureties who shall have given security under this Act.

8. Whenever it may be proved before M. that any such recognizance has been forfeited, he shall proceed to enforce the penalty of the recognizance in the mode prescribed for the satisfaction of decrees of the Civil Court.

9. Whenever it may be proved before M. that any such recognizance has been forfeited, if a Security Bond shall have been taken, and M. shall think that proceedings should be had upon such bond, he shall give notice to the surety, or sureties, to pay the penalty, or to shew cause why it should not be paid; and if no sufficient cause shall be shewn, the M. shall proceed to recover the penalty by the attachment and sale of any of his, or their property, in the mode prescribed for the attachment and sale of property in satisfaction of decrees of the Civil Court; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety, or sureties, shall be liable to confinement in Civil Jail by order of M. for a period not exceeding 6 months.

10. All sentences and orders under this Act, appealable under general rules of Appeals.

11. All mochulkas and security bonds which by force of any Act or Regulation may be taken by Criminal Courts, for keeping the peace, or for good behaviour, may be enforced in the manner prescribed by Secs. 8. and 9. of this Act.

SERVANT.

SERVANT,—see "Master," quitting service without 15 days' warning, or neglecting to complete work contracted for; 1 month. If it appear just and proper, he may be made to perform work, or complete service contracted for; in default, 2 months more.

S. 5. 6. VII. '19.

This not to apply when the quitting may have been caused by gross maltreatment; or by non-payment of wages due; or by any other justifying, or excusing cause.

C. 4. S. 6. VII. '19.

No master can, without good and sufficient cause, discharge a servant, against his will, before the expiry of the fixed term, or the completion of the specified service, or, in the case of servants employed from month to month, without giving 15 days' warning or 15 days' wages.

It is the duty of M. to enforce this, by causing payment to any servant *who may be discharged in opposition thereto*, of 15 days' wages in addition to any arrear due at the time of discharge: or, if the servant have been engaged for a fixed term, on specific service, by causing payment of such sum as may appear fully adequate to any loss sustained by him from being discharged before the time agreed upon. The decree to be enforced by sale of personal property of defendant.

C. 2. 3. S. 6. VII. '19. Cons. 340. 345. 582. 1053.

(I think it is clearly the object of the above law, that M. is only to interfere when the servant has been *wrongfully discharged*. This point is not always attended to. Petitions are often taken from servants still in service.)

There is no limit to the sum recoverable as wages in the Criminal Court. The servant may sue for any period not exceeding one year.

Con. 913. Octr. 31, '34.

This does not apply to wages of Mooktar. Con. 770. or to Gomashtahs and Mohurrers of Indigo Planters.

Con. 924. Decr. 26, '34.

Cases decided by M. under VII. 19. are not open to Civil action.

Con. 1158. July 13, '38.

To bring Mistrees, Mochees, &c. &c. under S. 5. VII. 19. supposing they have taken advances, there must be a stipulated term of service, or contract for the performance of a specific work. Such cases may be prosecuted either in the district in which the agreement was executed, or in that in which Defendant resides.

Con. 1329. May 27, '42.

Under Cons. 340 and 345. M. cannot hear suit of servant against a European British Master; but such cases, to the amount of 50 Rs. can be taken up as "Debts" under 53. Geo. III.

S. N. A. to Judge of Goruckpoor, Augt. 10, '46.

SERVANT.

Servant robbing his master; 2 years, and 1 in lieu of Bents; aggravated cases to be committed to S. J., in which case M. must state in his proceeding of commitment the circumstances which induced him to commit the case.

XII. 18. II. '34. Con. 391. June 10, '25. C. 239. Septr. 1, '20.

Order of a Master cannot justify an obviously criminal act, though it may diminish the punishment. (N. A. R. V. 3. 128,) but it may excuse an act not obviously criminal.

N. A. R. V. 2. 330.

Any person wearing, or being accessary to wearing a Chupprass, similar to that of Govt., and on which the name of employer is not engraven; 200 Rs. commutable to 6 months, and 6 months more.

XVIII. '35.

SIPAHEE.

SIPAHEE, or other guard, belonging to corps subject to martial law, committing any offence not involving a breach of Military discipline, to be tried by Civil authority.

S. 10. XI. '06.

Sipahee appearing to have been guilty of any neglect in guarding prisoners, or of any other act of a criminal nature in the discharge of his duty; to be made over to the Commanding Officer, with a charge in writing, to be tried by Court Martial.

S. 10. XI. '06.

References from Bombay officers regarding Sipahee remittances, to be made through Bombay Military Accountant.

Accountant, Decr. 18, '45.

Sipahee drafts, (C. of Accountant, 179. Decr. 20, '44. Notification, May 30, '45.) Collr. will take great care within a month after Roll of Payee has come to hand, either to forward the receipt for the money, or to explain to Commanding Officer the cause of delay. Commissioner to see that Collector does this. Commanding Officer to complain to Commissioner after a month. If any fault, Commissioner to report direct to Lieut-Governor.

Notification, 414. B. Feby. 28, '46.

See "Cantonment," "March of Troops."

SLAVERY.

SLAVERY abolished. V. 43.

No officers shall, in execution of any decree of Court, sell any person, or the right to the compulsory labour or services of any person, on the pretence that he is a slave.

S. 1. V. 43.

No rights arising out of an alleged property in the person and services of another, as a slave, shall be enforced by any Civil or Criminal Court, within the territories of the E. I. C.

S. 2. V. 43.

SLAVERY.—SODOMY.

SLAVERY.

No person who may have acquired property shall be dispossessed, or prevented from taking possession, on the ground that he, or the person from whom the property may have been derived, was a slave.

S. 3. V. 43.

Any act which would be a penal offence if done to a freeman, shall be equally an offence if done to any person on the pretext of his being a slave.

S. 4. V. 43.

The powers vested in the Governors of Her Majesty's Colonies, by C. 113. V. George 4th, for the suppression of slavery, are vested in the several Civil and Military Officers of the E. I. Company.

C. 101. V. and VI. Vic.

Importation of slaves into British Territory; 6 months, and 200 Rs. or 6 months more. Slave to be sent back to its friends.

S. 3. 4. X. 11.

Slaves removed for purposes of traffic from any province, British or Foreign, into any province subject to Fort William; or from one province into another; to be considered free, and their sale punishable with 6 months and 200 Rs. or 6 months more.

S. 2. III. 32.

Buying and selling persons *not* imported, not punishable.

C. 141. Octr. 5, '14.

Persons convicted of carrying away girls, and attempting to sell them for the purposes of prostitution, were sentenced to 5 years with labour.

N. A. R. V. 4.

Purchase of children, *not* for importation and sale as slaves, not punishable; but if they choose to run away, M. not to interfere to restore them.

Con. 887. June 27, '34.

SODOMY.

SODOMY.—Party to be committed to Sessions, and receive 7 years with hard labour in irons, and 2 years in lieu of Bents. If this appear insufficient, the case to be referred to N. A.

S. 6. XVII. 17. S. 2. XII. 34.

By the Mahomedan Law Sodomy is classed with Whoredom, and to warrant "Hudd" it is requisite that the crime be established by the Hudd rules of evidence. When not so established, the offender, if presumed guilty, is liable to discretionary punishment.

N. A. R. I. 234.

STAMPS.

STAMPS.—Unauthorized Vendor; 6 months and 200 Rs. or 6 months more.

S. 10. I. 14.

Vendor exacting more than is proper, to be prosecuted criminally, or be dismissed.

S. 21. I. 14.

Stamp Vendor convicted of extortion, and sentenced to imprisonment by Collr. shall be forwarded to M. to be confined in *Criminal* Jail.

S. 20. X. 29.

Vendor not to bother purchaser as to his purpose.

S. B. May 22, '38.

Stamps returned by Moonsiffs, &c. &c. on Razeenameh—Rules.

C. S. O. June 25, '33.

To entitle to a refund of Stamp duty under 10, Schedule B. X. 29, a Bazdawah of *one* party is not sufficient. There must be a mutual amicable agreement of *both* parties, to come within the title of Soolahnameh.

S. D. A. Jany. 23, '46.

Where documents have been executed on stamps of inadequate value, the penalty to be calculated on *the difference*.

Supt. of Stamps, Septr. 20, '34.

Bailbonds, Mochulkas, Recognizances, and Security Bonds, are to be charged as petitions to the Court ordering them. Exemption: Mochulkas on release of prisoners from Jail, and recognizances taken from prosecutors and witnesses for attendance on criminal trials.

X. 29.

This exemption extends to all Security Bonds given by Officers of Govt. on account of matters exclusively between Govt. and themselves. See "Security."

Board C. S. O. April 19, '49.

Copies to be taken on 8 anna paper.

Both petition for copy (except in case of petition of parties to a case requesting copy of final order in his case within one month, which petition can be on plain paper;) and copy itself, to be on stamp paper.

Con. 773. March 29, '33.

Only such petitions on unstamped paper as are exempted by Regn., should be filed, or read.

Con. 247. May 1, '16.

Unstamped petitions of prisoners to be allowed only in matters relative to the Jail, or to the criminal case in which they are confined.

C. D. A. May 28, '30.

STAMPS.

Applications for payment of money deposited in Court must be on stamped paper, unless an order has been passed for payment.

Con. 1093. June 9, '37.

The Stamp Revenue is entirely a European invention; and being utterly unknown in India before the British Rule, should be cautiously introduced in all newly acquired territories. The Law regarding Stamps is clearly and explicitly laid down in X. 29.

The great objects to be aimed at in the Stamp department, are the safe custody, and honest sale of the paper; entire freedom of purchase, so as to prevent any monopoly and undue enhancement of price; and the prevention of frauds by the fabrication of Stamps, or the double usage of the same paper.

Directions. 118.

The means adopted to prevent the re-issue of papers filed in the Civil Courts, and to check re-payment in fictitious suits adjusted by Razeenameh, are contained in C. S. D. A. Octr. 25, '33, and 981. May 25, '43, Augt. 2, '39, May 29, '40. Note to *Directions.* 122.

Stamp Depart. placed under "Superintendent of Stamps," to whom all references must be made.

G. O. April 26, '43.

Collr. to certify on the face of the statement furnished by the Civil Courts to the parties entitled to refund of stamp duty, the value of the stamp, and the amount refunded, the receipt of the parties being taken on the back of the Court's statement.

S. B. Octr. 2, '40. *Manual.* 78.

The Judicial Officers should send the parties entitled to refund, with the proper documents, to Collr., who, after examining the Stamp, will pay the amount.

Manual. 78.

Collector will take good care to make requisitions for Stamps in proper time, and will be held responsible for due precaution in this respect.

S. B. Novr. 26, '41.

Where the Maaffeedar is merely the Assignee of Govt., receiving what would otherwise be the Govt. Jumma from the hereditary zumeendars, the value in suits regarding the proprietary right in such villages, will be determined according to Note 1, Article 8. Schedule B. X. 29. the word "Govt." being held to include the "Assignee;" namely, at 3 times jumma of permanently assessed villages, and one year's jumma in others.

C. May 26, '47.

Revenue Officers the proper authorities to determine about stamps, and the Civil Courts must act accordingly.

Con. 1331. April, 15, '42.

Date of receipt of Supt. of Stamps for soiled stamps returned to him, to be inserted as a deduction in Memo. of stamps in store, appended to monthly treasury account,

STAMPS.

and copy of receipt sent in support. All recoveries of duty in pauper suits to be credited to "Supt. of Stamps," and all charges and expenses of conveyance to be debited to the same head per contra.

Acct. Novr. 27, '45.

On every occasion of Transfer, the Officer taking charge of Stamps must furnish in quadruplicate a receipt in annexed form, to Officer making over charge, to the Office for Record, to the Commr., and to Suptt. of Stamps. If it should be impracticable at the time of delivering over charge, to count the unsold stamps in the hands of the venders, the receipt is nevertheless to be given in the prescribed form, but the responsibility of the Officer delivering over charge will not cease until such time, not exceeding 3 months from the date of Transfer, as the Stamps in the hands of the Venders are counted and found correct. If within that time, any deficiency be discovered in these stamps, the responsibility of the Officer who delivered charge will be the same as if no such receipt had been given. (Then what was the use of the receipt?) But if within that time the stamps in the hands of the Venders should *not* be counted, (The Board should not consider such a loose way of transacting business possible.) or if they should be counted and found correct, the receipt will become and be held a full and complete discharge, and the Officer who received charge will be made answerable for any deficiency that may afterwards be discovered, whether it occurred during his incumbency, or not. When the actual balance in the hands of the Venders is not ascertained at the time of giving and receiving charge, a note as in the accompanying form may be appended to the receipt.

Officers receiving charge of stamps are required to count the stamps in the hands of the Venders as soon as practicable, taking the precaution, with a view to prevent collusion, to have the entire quantity of Stamps in the hands of all the Venders produced *simultaneously* at the sudder station, so that the whole balance may be inspected at once. If, on being counted, they are found correct, the same will be certified at the foot of the monthly account of receipts and issues furnished to the Suptt. of Stamps; but if any deficiency be found, immediate intimation is to be given to the officer who delivered charge (who may have gone to sea a couple of months previous) and the necessary steps taken at the same time to enforce in the first instance the responsibility of the Vender.

The above instructions are applicable only to cases where Stamps are in the hands of Venders on commission sale, and the value of them has not been realized and credited to Govt. No account need be taken of stamps supplied to Venders under C. 5. S. 11. X. 29. of which the value, less the usual discount, has been paid into the Treasury.

Board of C. S. O. July 31, '49.

Collr. must observe carefully the precaution of wrapping in wax cloth all packages of Stamp paper, or Deeds requiring a stamp, despatched during the rains or in damp weather; and will be held responsible for any damage sustained by Stamp paper, or Documents, in consequence of neglect in observing this rule.

Board of C. S. O. Septr. 1, '49.

Memo. to be opened in Treasury Account, to reconcile the head "Stamp Duties," with the amount reported to Suptt. of Stamps.

Acct. Octr. 20, '48.

STATEMENTS.

STATEMENTS, *Collectory.*—See "Treasury No. 9. Forms," "Accounts." (For Foujdaree, see "*Magistrate*, II. 2. *Statements.*")

Monthly and Quarterly Summary Suit Statements to be submitted to Board. Each heading is sub-divided into three compartments.

The first will include all cases of suit for rent against Cultivators by Malgoozar, Putteedar, Farmer, or Lessee; and for quota of revenue by Lumberdars against Putteedars; and all claims for Replevin of property distrained on account of rent, or revenue.

The second heading will contain all claims by Ryotts, or Putteedars, for sums illegally levied, or attempted to be levied; interference in, or hindrance of cutting the standing crops, or winnowing the grain in due season, and similar obstructions.

The third will include cases of direct Ouster, hindrance in ploughing fields in due season and other grievances of a like nature.

Collr. will furnish in column of remarks, explanation of the cause of delay, in every case which may have been allowed to hang on 3 months.

S. B. II. 46. 51.

Detailed statement of Salaries and Establishments on the 1st May of each year, to be sent to Civil Auditor, who will not audit April salary bills till he receives the statement, and will report to Govt. any officer who has not sent it in before 15th June.

G. O. Octr. 15, '42.

Monthly return to be furnished of proportion in Silver and Copper in Stamp and Post office collections.

Acct. Jany. 4, '44.

Instances having occurred in which Collrs. have delayed to take prompt measures for bringing under settlement lapsed Maaffee Tenures, and increment of land gained by Alluvion, or have omitted to furnish reports of such assessment when made, so as to bring them on the district rent-roll; Collrs. will in future transmit half yearly returns, according to form, from 1st July.

S. B. April, 7, '46.

Collr. to insert a Memo. of fall of rain in the annual Administration Reports.

S. B. Octr. 22, '47.

Revised Form of Statement of Sale value of Land according to C. May 12, '46. It should contain only those cases in which the Area and Jumma are defined, and all Fractions should be omitted.

S. B. Septr. 26, '48.

All Forms and Statements required by Govt. Officers shall, till further orders, be provided by the Secundra Orphan Press.

No return shall be printed, or indented for, till it has received the approval of one of the officers at Agra, agreeably to Departments as follows.

Civil and Criminal Justice, ... Registrar of S. N. A.
Revenue, ... Secy. of S. B.

STATEMENTS.

Police,	Commr. of Agra.
Jails,	Inspector of Prisons.
Miscellaneous,	Secretary to Govt.

Forms, when approved, shall be numbered in a consecutive series.

Suptt. will on the receipt of Indents countersigned by the officer of the Department at Agra, forward the forms to the District Officers, with letter of advice, and receipt for signature.

G. O. May 22, '48.

In submitting *Fowjdarry* Indents, it will merely be necessary to state the *Nos.* of the Forms required, according to accompanying Form of Indent.

Any Officer may propose new Forms.

All Indents are to be prepared on 1st Jany. and 1st July, and are to be forwarded without loss of time; and no intermediate application for lithographed forms will be attended to, except under peculiar circumstances of emergency, which must be explained on each occasion.

Each Indent must be attested by the Officer indenting for the Forms, and care should be taken that it does not exceed the average expenditure for 6 months.

Circulars of Septr. 7, '46. and June 7, '47. rescinded.

N. A. Septr. 8, '48.

STATIONERY.

STATIONERY.—If the indent of Collr. is not sent in to Commr. before 10th Jany. the Collr. will have to buy it for himself as he best can.

S. B. July 5, '39.

All indents for Stationery to be sent to Stationery office on 1st July of the year preceding.

G. O. June 1, '41.

All Public officers at Allahabad and above it, to send their annual indents to the Stationery office on the 1st July of each year; and those below it on the 1st Octr. so as to admit of the supplies reaching their destination by the beginning of the succeeding year. The indents should show the balance in hand at those dates respectively.

G. O. March 2, '47.

In Indents, the number of Assistants, Clerks, and Section writers, by whom the stationery is used, to be separately and distinctly stated.

Duplicate Receipts to be forwarded immediately on receiving the Stationery.

The boxes to be opened in the presence of the Head of the Office, and the contents compared with the receipts sent for signature by the Stationery office.

Care to be taken to have the Indents despatched on the 1st Octr. or 1st July respectively, according as the station may be above, or below, Allahabad,

G. O. July 29, '47.

STOCKS—STRIPES.—SUITS OF GOVERNMENT.

STOCKS.

STOCKS. Any Landholder, or other private individual, using stocks, or other instruments of restraint, for the purpose of confining persons indebted to them, to be punished for Assault under the General Regns.

S. 27. XX. 17.

STRIPES.

STRIPES, see "*Bents.*"

SUITS OF GOVERNMENT.

SUITS OF GOVERNMENT.

Where Collr. is officially made a party to a suit, he must, on being served with the prescribed notice, either defend the suit in the usual manner, whatever may be the nature of the plea that he may put in, either denying the jurisdiction, or otherwise; or take the consequences of allowing the cause to be tried *ex parte*. Where he may file his answer through the Govt. Vukeel, the Court trying the case on non-suiting the Plaintiff with costs, should proceed to order the payment of the Govt. vukeel's fees in the first instance by the Collector on the part of Govt., leaving him ultimately to recover the amount in the usual manner, from the party declared liable to the same.

Con. 1192. Decr. 21, '38.

Suits against Officers of Govt., see "Officers." "Correspondence," "Magistrate's Liabilities."

Native Judges cannot fine Collector for disobedience, and should report to Judge, who will take such steps as he may deem proper.

Con. 1193. Decr. 21, '38.

When there are no suits pending, a Docket should be substituted for blank Quarterly Form. S. B. March 3, '48.

1. No suit shall be entertained in any Court for contesting the justice of any award made before the passing of this Act by the Revenue Authorities under VII. 22. IX. 25. and IX. 33. after the expiration of 12 years from the date of the award.

2. After the expiration of 3 years from the passing of this Act, no such suit shall be entertained for contesting the justice of any such award made before the passing of this Act.

3. No such suit shall be entertained for contesting the justice of any such award made after the passing of this act, after the expiration of 3 years from date of award.

XIII. 48. June 10, '48.

Whenever a Suit is instituted in which Govt. is a party, a full report should be transmitted by Collr. and Commr. to S. B., who will give general directions, and keep Govt periodically informed of the general result, and consult it in special cases.

G. O. Septr. 1, '48.

It will be convenient for Collr. to leave a wide margin in his reports, to enable Commr. to record on the same paper a summary of the points at issue, and the defence proposed to be filed. The Govt. Vukeels to keep Collr. well informed as to the progress of each suit, in order that he may report every important step to Commr.

Commr. 5th Division. Novr. 2, '48.

SUMMARY SUITS.

SUITS OF GOVERNMENT.

When Commr. sees that the name of Collr. has been needlessly inserted, he should direct him *not* to plead to the merits of the case, but merely to plead that Govt. has no interest in the action, and pray to have his costs made payable by the complainant.

S. B. IV. 162.

When the act of Collr. appears primâ facie to have been contrary to law, or to justice, he shall be left to defend it in his individual capacity. See "Officers."

S. B. IV. 163.

In suits appealed to S. D. A., the pleadings should be prepared by Collr., with assistance of Govt. Vukeel of the lower Court, and after being revised by Commr. should be sent to S. B. with any observations which may appear requisite, or useful; when the S. B. approving, or altering, will send them on the prescribed Stamp to the G. V. of the Sudder to be filed.

S. B. IV. 165.

Great care to be taken to make cases full and complete in the Court of first instance, as *Appellate Court can admit no new evidence.*

S. B. IV. 166. 167. Appendix XIV. of *Directions.*

The *Annual Report* sent to Accountant, must display all the unadjusted advances issued in the Revenue Department, in the prosecution and defence of Civil suits, commencing the series with earliest suit pending, and terminating with the last instituted.

The explanatory remarks should specify in what Court the proceedings have been instituted; whether still pending or decided; and if decided, whether for or against Govt. In the former case, what steps have been taken to recover the amount decreed. In the latter, whether any consequent proceedings in Court have been taken by Govt. Vukeel; or, in either case, whether application has been made to Commr. to write off any sums connected with such decrees defrayable by Govt., or to remit such decrees as are clearly irrecoverable. In all cases date of application, or other proceeding, must be quoted.

The total of column "Balance unrecovered" should correspond with Memo. of Advances for Civil Suits at the foot of the Treasury account for April of the same year—See "Advances."

Manual. 16. 17.

SUMMARY SUITS.

SUMMARY SUITS.

LANDLORD AGAINST TENANT, FOR RENT,—1*st. by Distraint.*
2*nd.—Summary Suit.*
TENANT AGAINST LANDLORD, FOR————3*rd.—Exaction of more than is due.*
4*th.—Ouster from his holding.*
5*th.—Suits of Landlords against Putwarrees,* to compel production of Accounts.

The person whom the Collr. is bound to recognize as competent to collect the rents. the apparent proprietor possessor; or, in other words, the person who collected the

rents of the former year, and discharged the other functions of a proprietor, unless he has been since legally ejected by his own act, or by the order of a competent authority. This is the person from whom the Govt. Revenue will be collected, and whose name should appear in the Malgoozaree Register.

Directions. 256.

A Malgoozar can claim from his under tenant under the Summary process only the same amount which he collected the year previous. This is specified in S. 10. VIII. 31. which precludes all claims to increased rent under S. 9. 10. V. 12. The only exceptions to this are where the tenant has consented in writing to pay an increased rent; and where the rents may have been settled after auction sale under Secs. 7 and 10. I. 41.

Directions. 257.

The summary process for Arrears of Rent is applicable only to recent arrears due in the course of the current year, or immediately after the close of it; and shall not be applied to any demand which may have been due more than a complete year before the delivery of the petition of arrest and application for summary inquiry and process. This restriction, however, shall not preclude Collr. from including in the adjustment of recent arrears, any arrear which may be found due beyond the period of one year, if it shall appear equitable.

C. I. S. 4. II. 05.

A Malgoozar who is the representative of a village community, can demand from his co-parceners whatever the village custom prescribes to be due from them, namely, their quota of the Govt. Revenue, and of the authorized village expenses. This demand will be according to the *baach*.

Directions. 258.

If the Putteedars do not pay, the Malgoozar possesses the power to sue them summarily. Where Settlements have been concluded under VII. 22. or IX. 33. the only matter for trial is, whether the Putteedar has paid to the Lumberdar for the current year, the sum with which he, the Putteedar, is chargeable according to the proceeding and compact of Settlement.

Where Settlements have not yet been formed, the only question is, whether the Putteedar has paid the sum of which he has heretofore made yearly payment. If he has not, a decree is to be given against him for the amount due, without entering upon, or referring to, any questions of extraneous claims, or settlement of accounts; touching all which, if brought forward by any party, they are to be referred to a regular suit in the Civil Court.

This right to bring summary suit, does *not* extend to claims to division of profits, but simply to the levy of the Govt. Revenue (with expenses, where that is made a part of the Settlement compact, but not otherwise,) by the person who is bound to pay it to Govt. from those who are bound to pay their quota to him.

It will be at once perceived that such a decree once passed, will put it in the power of the Collr. to give the amplest support to the Lumberdar, by transferring, if requisite, the puttee of the defaulter, and bringing the defaulter under all, or any of, the

SUMMARY SUITS.

modes of duress which may be applied to recover an arrear of rent, or revenue. This legal practice will at once supersede all those anomalous modes of aid which the Collrs. in many districts were in the habit of giving, under a notion of the necessity of assisting to collect the Govt. Revenue; such as sending out, or permitting the Tuhseeldars to depute Suzawuls and Chuprassies to collect direct from each sharer in Putteedaree, or Bhyachara properties. It will, in short, render unnecessary all those acts of interference with the village constitution and community, which deprived Govt. of the aid of their natural and most efficient agent and produced much confusion and extortion wherever largely employed.

It is hardly necessary to observe, that the power to distrain is implied in the power to bring summary suit. The Board, however, do not desire to see the practice of distraint encouraged between the brethren. If distraint is made, and summary suit for replevin brought, the issue will be the same as that noted above. The only matter for trial will be, whether the Putteedar has paid in the current year the amount he is bound for. If he has, he will at once obtain his decree of replevin with costs. If not, his suit will be dismissed with costs, and the amount due will be levied from his security.

S. B. II. 35—38.

Till Putwarree's papers have been filed, for the preceding Fuslee year, no Suit for *Rent* can be heard, either by Collr. or by Civil Court.

S. B. March 21, '43.

But this does not apply to Suits of Tenants against Landlord for Exaction and Ouster.

Court of Directions, Decr. 29, '48. see "Putwarree."

Though Govt. have postponed the date of their own demand upon the Malgoozar till after the crops have been cut and carried, they have not thereby weakened the landlord's lien on the crop of his tenants, which is recognized in C. 2. S. 17. XXVIII. 03. The landlord can prevent the crop from being removed from the ground till his demand is satisfied; and he can sue summarily for balance claimed by him, within a month before the Govt. instalment falls due.

"*Directions.*" 259. S. B. II. 12. 13.

In all cases, however, the Malgoozars are bound to treat their tenants with consideration, so as not to injure them even in the enforcement of legal claims. If they proceed with unnecessary harshness, they are liable to be cast in damages, which can be awarded in a summary suit under C. D. A. Novr. 15, '33. Thus, for instance, Malgoozars are liable for damages; if they distrain irregularly, without observance of the strict legal forms: (C. 2. S. 2. XXVIII. 03.) If they distrain and sell when no arrear is due: (S. 6. XXVIII. 03.) If they wilfully distrain property, the value of which is disproportionate to the arrear demanded: (S. 14. XXVIII. 03.) If they proceed to sell distrained property notwithstanding tender of payment; (S. 9. XXVIII. 03.) Or if they oust a ryott, or distrain without having previously filed the required Putwarree's papers. (S. 15. IX. 33.) On the other hand tenants, who resist legal attachment, are liable to damages in twice the amount rescued. (C. 2. S. 17. XXVIII. 03.)

SUMMARY SUITS.

Whilst, however, this power of awarding damages is given in order to prevent illegal or oppressive conduct, the power is evidently one which should be cautiously used, and only in the clearest and most flagrant cases.

"*Directions.*" 273.

The Landlord has the option of proceeding against his tenant either 1*st, by Distraint*; or 2*nd, by Summary Suit*.

In the former case, he attaches of his own authority, and brings the distrained property to sale through the agency of the Sale Commr. appointed for the purpose under I. 39. In this event the tenant in order to save his property from sale, must either pay the demand, or find security for the payment with interest, whilst he contests the claim before the Collr. by an action of replevin.

"*Directions.*" 261.

(Under I. 39. a Sale Commr. is appointed in each Tuhseeldaree, who receives 10 per cent. of the property sold by him. If there is not duty enough for a separate officer, the appointment should be given to Naib Tuhseeldar. A distinct schedule of all property attached to be recorded by them; and they must clearly account for each article, on pain of being held responsible for the value claimed of any article not so accounted for.)

Directions. Note 261. S. B. II. 43—45.

In the 2nd case, the Landlord proceeds against the person of his tenant, and has him arrested to answer the demand; or, in the event of his non-appearance, on obtaining a decree, sues out execution either against the personal property of the defaulter, or against the tenure on which the balance has arisen.

"*Directions.*" 262.

The same considerations which constitute Collr. the judge in all Summary Suits between Landlord and Tenant, regarding the Rent of Land, make him also the Judge in all Suits brought under C. 2. S. 8. VII. 1. 24. by ABKARREE Farmers against the Vendors and Manufacturers of spirituous liquors, for arrears of Abkarree Revenue.

Directions. 282.

The Collr. who is desirous to keep himself acquainted with the state of his district, should pay close attention to the file of Summary Suits. It is most important to provide for their rapid and correct decision, and to prevent the accumulation of arrears; and much general information may be gathered from the file. The increase, or decrease, of the suits should be watched, and the causes of the fluctuations investigated. An unusual number of suits of any particular class, or in any particular locality, may often afford the clue to some erroneous practice, or to some local abuse, which requires correction and remedy.

Directions. 281.

Although the Appeal from Summary decisions, (see "Appeals") lies to the Commr., and that only upon the ground of irrelevancy, the Board have ruled that Collr. can amend, or annul, summary orders of his subordinates, on the ground of injustice.

S. B. Augt. 11, '48.

SUMMARY SUITS. DISTRAINT.

I. DISTRAINT.

When any under tenant, ryott, or abkar, fails to pay his rent or revenue, by the day fixed in his engagement ; or, if no engagement exists, by established usage ; landholders of every kind, farmers, Collectors, and their agents, may distrain and cause to be sold in liquidation of the arrear, the crops, cattle, or any other personal property belonging to such defaulter, or to his security, should the defaulter have refused to pay on demand, or have absconded.

S. 2. 5. XXVIII. 03.

Lands, houses, and other real property, implements, or tools, ploughs, and cattle employed in agriculture, or seed-grain, not to be distrained under penalty of forfeiture of arrear, besides damages.

S. 3. 4. XXVIII. 03.

(The proviso of Defaulter *not* possessing other property is annulled by S. 14. V. 12.)

If the Rents are taken *in kind* by division of the crop, according to the custom called *Buttai*, the Landlord can distrain the standing crop when it is ripe, and, under S. 11. XXVIII. 03. can cause it to be reaped and divided. If in this proceeding he act contrary to custom, or oppressively so as to occasion unnecessary loss to the tenant, the latter has his remedy by an action of replevin, or for undue exaction, or for damages. If the Landlord interferes with the tenant's crop otherwise than by legal process of attachment, he commits a breach of the peace, for which he is liable to punishment in the Criminal Court. By Summary Suit the Landlord may establish his right to a certain quantity of grain, or its money equivalent at the market-price of the day.

Directions. 265.

If the rents are taken in the money, equivalent for a certain portion of the crop, determined by estimate, according to the custom called *Kunkoot*, the same course of proceeding may be followed. If the tenant object to the Distrainer's appraisement, he has his remedy by an action of replevin, or for undue exaction, or for damages. In both of these cases, the rent is due on the ripening of the crop ; and if the tenant neglect then to make provision for the payment, he is a defaulter. It is only a special agreement to the contrary, which could bar the Landlord's demand on the ripening of the crop.

Directions. 266.

In cases where the payments are made in kind, or in the money equivalent at the market-price of the day, according to the customs of *Buttai* and *Kunkoot*, the Landlord has evidently an interest in the cultivation of certain crops. The rotation of crops is fixed by custom, and if that custom is violated, so that crops are grown of less value than the custom requires, the Landlord will lose. He is, however, entitled to the full value of his share of an average crop of the more valuable kind sanctioned by the custom, and he can distrain, or sue summarily, for its equivalent in money, or in the grain which may be sown. If the existence of the custom be disputed, this is a point which must be decided like any other question arising out of the suit. A dispute of

this kind may probably be brought before Collr. at sowing time, when the Landlord may endeavour to eject the tenant, and the tenant may bring an action for Ouster. If the tenant is not in arrear, he cannot be ejected; but he may be warned of the certain ruin he will bring upon himself by resisting any legitimate requisition of this nature which may be made by Landlord.

Directions. 267.

No person to sell property distrained, but an officer to be appointed by Collr. in every pergunnah, to sell and remunerate himself with 10 per cent. He is to keep a regular and complete record of his proceedings.

I. 39.

Persons deputed to distrain, by a notice of arrears duly signed by the claimant of such arrears, to furnish the defaulter, or leave at his house, a regular Jumma wasil bakee account of the arrear, with a copy of the notice, endorsed with an inventory of the property attached, the place where it may be, and that it will be brought to immediate sale, if the arrear be not previously paid.

S. 8. XXVIII. 03.

The property distrained should be proportionate to the arrear.

S. 14.

The attachment must be made by daylight.

S. 15.

Distrainer may force open any out-houses, or enter any dwelling-house of which the door may be open; and force open the door of any inner room except the Zanana. Should the outer door be shut, both the house and Zanana may be forcibly searched in the presence of a Police officer, after giving due notice for the removal of the women.

S. 19.

The notices prescribed above having been served, should the defaulter refuse to pay, or abscond, the distrainer after the lapse of 5 days should forward (to the Sale Commr. I. 39.) an inventory of the property attached, with the amount due, requesting him to cause the property to be sold.

S. 20.

Should defaulter within 5 days of the attachment, enter into a bond, and give ample security before Collr. or Sale Commr. or distrainer himself, to dispute the demand within 15 days, as well as to pay all final awards with interest; (S. 16. V. 12.) or should he tender the arrear and expenses of attachment, previous to the day of sale, the attachment to be withdrawn.

S. 9. XXVIII. 03.

On receiving the distrainer's application, the Sale Commr. will fix up at his own cutcherry a list of the property to be sold, specifying the house, day, and place of sale. This to be proclaimed by beat of drum on a market day, before the day of sale. The

SUMMARY SUITS. DISTRAINT.

property should be appraised, the appraisers giving a certificate of their appraisement, to be stuck up in the cutcherry, and communicated to the defaulter at least 3 days previous to the sale.

S. 20.

If a part only, of the demand be contested, it is competent to the person whose property is distrained, to release it from distraint, on paying the undisputed part of the demand, and giving security to contest the remainder.

S. 12. VIII. 31.

On the day of sale, the property, or samples of it, to be brought to the place of sale. Sale to commence at 12 A. M. If the property sell for more than the arrear, the surplus, deducting all charges, to be returned to defaulter.

S. 20.

If a price is not offered equal to the appraisement, the sale to be postponed till the next market day, when the property should be sold for what it will fetch, not being less than the first day's bid.

S. 19. V. 12.

Property to be paid for in ready money. If payment be not made in 5 days, it should be sold again for what it will fetch, the defaulting purchaser forfeiting 10 per cent. on the price bid by himself to the distrainer, as well as making good all losses and charges on such resale. Any profit on the resale to be carried to the credit of the defaulter.

S. 24. XXVIII. '03.

Neither Distrainer, Appraiser, Officer selling, (nor Defaulter by S. 23.) nor any person on their behalf, to bid for the property.

S. 22.

Distrainer when opposed, or apprehensive of resistance, to apply to Police Darogah, who on the distrainer's oath, shall depute a muzkooree peon (regular Burcundauze forbidden to be sent by C. 5. S. 27. XX. 17.) to attend upon the distrainer, and *watch the proceedings.*

C. 3. S. 27.

When resistance is offered to the peon, Darogah and Burcundauzes to proceed to his assistance.

C. 4. S. 27.

The peon to receive 2 annas a day; the estimated amount to be paid in before issue of process.

C. 7. S. 27. XX. 17.

To check the too great employment of muzkooree peons, Darogah always to report their employment, the reason, and by whom the tulubana has been paid.

C. 329. Octr. 3, '27.

SUMMARY SUITS.

Unfounded complaints by undertenants against distrainers, and the summoning them as witnesses in cases of which they know nothing, to be punished.

S. 12 V. 1800.

Breach of peace in resisting legal attachment, to be punished by Criminal Court.

C. 2. S. 17. XXVIII. '03.

No person can be compelled against his will to take charge of distrained property. If any one takes charge, he becomes responsible, and is liable to suit for damages in the Civil Court, but *not* summarily. Generally, the person at whose instance the property is distrained, or attached, must be considered answerable for its safe custody.

Con. 958. June 19, '35.

The punishment for resisting, or breaking attachment, in cases of distraint for arrears of rent, as prescribed by S. 19. 20. XVII. 93, and the corresponding Regns. for Benares and N. W. P. is imprisonment, and damages to be enforced by the Civil Court. But there appears to be no enactment regarding such offences when the distraint has been made by M., and it would seem that he must proceed as in a case of resistance of process.

Abridgement of the above by J. Thomason, Collr. of Azimgurh.

"According to S. 8. XXVIII. 03, any person distraining for arrears of rent, is bound to present Defaulter with a regular Jumma wasil bakee, setting forth the arrear and date on which it is due. If he distrain without this notice, he shall not be entitled to recover the arrear for which the distress may have been levied; and he shall be compelled to restore the distrained property to the defaulter, and be liable to a suit for damages. He is also to endorse on the wasil bakee an inventory of the property distrained. The document shall be delivered to the defaulter, or left at his house in the presence of witnesses. This rule is equally applicable to Suzawuls on the part of Government.

If a complaint be preferred to a Collr., that property is distrained without the observance of this form, a copy of the petition should be sent to the Tuhseeldar, with orders to inquire into the truth of the case. If true, immediately to remove the distress, and give over the property to the owner; at the same time informing the Zumeendar that he is hereby debarred from bringing a suit for the balance, and has become liable to prosecution for damages. If the demand be nevertheless brought forward in a summary suit, the Defendt. may plead the illegal distraint, and the plaintiff will be nonsuited.

A ryott disputing the validity of a demand thus made upon him, must, under S. 15. V. 12. within 5 days from the day after the attachment, find security for payment of the amount, or to institute a suit within 15 days for the trial of the demand. This security may be tendered to Distrainer, (Sale Commr.) or Collr. and the Sale Commr. is bound to receive it, and to give the defaulter a certificate of its reception, at the same time removing the attachment. If the suit be not instituted within 15 days, the distrainer will proceed to realize the amount from the defaulter, or his security, in the usual method.

See also S. B. Decr. 28, '32.

SUMMARY SUITS. DISTRAINT.

The Civil Court is *not* bound to inform Collr. of the Replevin Suit having been thrown out ; or to issue an injunction to sell and realize the amount of arrear claimed by Deft. Neither is there any necessity for Collr. on hearing of Civil Court's decision to take any steps. The restraint temporarily laid upon the Distrainer being removed, he can himself with greater power than before, proceed against both Defaulter and Surety ; and a second suit on the same point, cannot be heard.

Commr. 5th Division. April 20, '48.

Distrainer cannot sell a standing crop ; but shall cause such crop to be reaped in due season, and carefully stored, within the limits of the pergunnah. The expense of reaping and storing, to be paid by the owner on redeeming his property ; or from proceeds of sale, should it be sold.

S. 11. XXVIII. 03.

The kist due on the crop must first be satisfied, before any other claim can be admitted ; on the principle of C. 2. S. 17. XXVIII. 03.

Con. 348. April 19, '22, and so much of C. 2. 17. XXVIII. 03 as prohibited, the summary cognizance of the claim of a third party to the property distrained, have been modified by Act. X. 46. which declares, that if any person *not* the defaulter, claims as his right property that which has been distrained for arrears of rent, and shall within 5 days from the day after attachment, enter into a bond before Collr. or I. 39. Commr. with good security, binding himself to institute before the Collr. within 15 days from the date of such bond, a summary suit against the distrainer and defaulter for the trial of the right, and to restore the property, or make good its value in case the claim be disallowed, with all costs of suit, and damages, the distrainer shall immediately withdraw the attachment.

If the claimant shall not within 15 days institute such summary suit, the distrainer can recover the value of the property distrained, with expenses of attachment, by attachment and sale of the personal property of the claimant, or his surety, or both, unless the claimant shall restore the property, or, if the distrainer prefer it, make good its value.

X. 46.

In case of a contemplated sale of property in execution of a summary award given by Collr. it is competent to Civil Court, on the motion of a *third* party claiming the property ordered to be sold, to stay the sale, pending the result of a regular suit instituted by such third party to establish his claim.

Con. 1181. Octr. 26, '38.

SUMMARY SUIT.

2. Summary Suit.

If the tenure on which the default has occurred, be an intermediate tenure between the landlord and the actual cultivator, the landlord is competent, when he has instituted a summary suit under S. 2. XXVIII. 03, for the recovery of the arrear, to send a suzawul of his own authority to attach and collect the rents of the actual cultivators immediately from themselves.

C. 2. S. 18. VIII. 19. Con. S. D. A. 456. Augt. 17, '27.

SUMMARY SUIT.

In modification of Secs. 9., 10. 11. 13. V. 12., If any Ryott, or Tenant of land, upon whom such notice, or demand, as is specified in the said Secs. is to be served, shall have no place of usual residence in the zillah, where the land to which such notice or demand, has reference is situate, the mode of serving such notice with a Jumma Wasil Bakee, shall be by affixing it at the Malcutcherry of such land, or other conspicuous place thereon, or at the village choupal, or other conspicuous place in the village.

VIII. 48.

As soon as the arrear is adjudged to be due in the summary suit, the Landlord is at liberty to cancel the tenure of his own authority, if it be a lease, *farm*, or other limited interest, intermediate between himself and the actual cultivator.

C. 4. S. 18. VIII. '19.

But if it be an heritable and transferable property, he can bring it to sale in satisfaction of the summary decree.

C. 7. S. 32. XXVIII. '03. and VIII. '35.

No other real property of a defaulter can be brought to sale in execution of a summary decree, other than that on which the default has occurred. Trees, tanks, and houses are considered real, or more correctly speaking immoveable property, and are therefore not liable to be sold in execution of summary decrees.

If the tenure on which the arrear has arisen be that of a *khood kasht* ryott, or other *resident cultivator* of the soil, and the defaulter fail on demand, immediately to pay into Court the sum adjudged to be due, the Plaintiff shall be authorized by the Collr. to oust the defaulter, and make such arrangements as he may judge proper for the future management of the lands.

Directions. 263. 264. C. 5. S. 18. VIII. 19. Para. 2. Con. 1205. March 15, '39.

"The declaration contained in C. 5. S. 18. VIII. 19. that it is illegal to oust, or disturb resident cultivators, *unless* under certain stated circumstances, necessarily implies a remedy in case of contravention; and, in the spirit of the enactment cited, such remedy should be afforded by the Judge on the summary application of the ejected ryott, by an order for his being restored to possession, and his retaining it until the process prescribed by the Regn. shall have been observed."

S. D. A. No. 1205. March 15, '39.

The jurisdiction formerly exercised by the Judge, with regard to the suits in question having by VIII. 31. been transferred to the Collr. it has been decided by the S. D. A. that the authority to redress complaints of illegal ejectment which the above order declared to be vested in the Judge, must be now considered to rest with Collector.

A Collector is therefore bound to maintain a ryott's possession, unless there be out against him an unsatisfied decree for rent, in which case the Collr. after unavailingly requiring payment, may authorize the Zumeendar to oust him. In any other case, a ryott can only be ousted by due course of law, in a regular suit.

S. B. II. 17. 18.

SUMMARY SUIT.

Much oppression is caused by Zumeendars holding old unsatisfied decrees in terrorem over the heads of their ryotts. Ejectment ought not to be allowed on such decrees after the lapse of a year; but, as the law stands, they give the Zumeendar a great *pech* over his tenants.

The Law of Distraint, and Summary Suit, is ably summed up by Mr. J. C. Marshman, in his Civil Law. These provisions should be carefully studied, and mastered by every Assistant, before he is invested with special powers.

Every effort should be made to render the process of these suits as cheap and summary as possible. Petitions of plaint for whatever amount, can be received on 8 annas paper, as authorized by S. 7. VIII. 31.; and, under S. 7. 8. XIV. 24. and S. B. II. 32., there are few documents which require to be written on stamp paper.

Hence, too, has arisen the practice of allowing the Landlord to include in one suit several tenants who are in balance to him. The Board, in II. 33. make no restrictions, but say, " the practice of including a number of individuals in one suit either as Defendants, or Plaintiffs, as the case may happen to be one of replevin, or for arrears of rent, seems to possess many advantages, and no disadvantages. It should be therefore left optional with suitors in all cases of summary suit, to sue collectively, or individually, as may seem to themselves most advisable." This, I think, gives too great license; summary suits with a dozen different issues, become long and confused. The rule laid down by the S. D. A. in Con. 860. Feby. 7, '34. seems preferable, that " only such defaulters should be included in one summary suit, as conjointly cultivate any parcel of land, and are conjointly answerable for the rent." Each suit will then have only one issue, which can be clearly and promptly decided, with costs; and the practice will assimilate with that of the Civil Courts.

" The proceedings are essentially summary. The point to be tried is simply whether Plaintiff has received from Defendant the sum due, according to the rate of last year, or according to his written agreement. In the former case, the Putwarree, as the sworn accountant of the village, is the general referee; and, unless under extraordinary circumstances, his evidence is sufficient. His signature is also usually required to authenticate written agreements. His evidence should in all cases be taken, and the party objecting to his evidence should make out a very strong primâ facie case before further witnesses are heard."

Directions.

It must be remembered, that the object of the summary department is to levy a due, the right to which is primâ facie obvious and undeniable; or to relieve a cultivator, or sub-tenant from vexatious process on account of one which is not so. The Regn. VIII. 31. points out the mode of ascertainment, namely, by an examination of the accounts. The only proper oral witness is the Putwarree; and he, not as a narrator of facts, but as a sworn accountant. Beyond the accounts, nothing which is not in itself final and conclusive, as a written agreement to pay, or a distinct order of Court declaring a right, should be admitted.

S. B. II. 26.

In all other cases, if the justice of the demand is not clear, and still more if the right is not clear, the suit belongs properly to the jurisdiction of the Civil Court, not of the Collr.; and in all such cases the Collr. should, if the suit be a summary one,

dismiss it with costs ; and if it be a case of replevin, decree it with costs, and refer the party to the Civil Court. If the Collr. neglects his duty in this respect, the Commr. should cancel the decision for irrelevance, and pass the order above described, leaving the party who makes a demand of rent not properly leviable by summary process, to bring his suit in Civil Court.

S. B. II. 27.

By S. 13. VIII. 31. Commissioners are competent, to authorize and direct the Collectors to make over summary suits to their Tuhseeldars, with a view to their being adjusted, and reported on ; and the Board are desirous to see this agency employed.

The Tuhseeldars, after investigation of any case made over to them, should draw out a proceeding (*not* a mere kyfeeut) setting forth the decision, which in their judgment should be given, with the grounds thereof, as was done by the Collectors prior to XIV. 24. when reporting on summary cases for the decision of the Civil Courts.

S. B. II. 29.

The Tuhseeldar's decision, if approved, should be confirmed by a proceeding in the briefest form ; or, if an opposite decision, or any modification of the decree be considered requisite, either object may be effected by a brief final proceeding, and the case struck off the file.

S. B. II. 30.

This course possesses so many advantages, that it ought to be the general rule that all plaints, immediately they are filed, be sent to the Tuhseeldar. He will generally be able, near the spot, and with comparatively little trouble to the parties, to arrange the dispute, and return the case so adjusted that it may be immediately struck off the file. If, however, any objection be made to Tuhseeldar's proceeding, issue should be joined on it, and the case quickly disposed of.

The cases in which it would be preferable not thus to refer to the Tuhseeldar, are those in which his impartiality may be suspected ; in which the parties concerned may have authorized agents in the Collector's Court ; or which may turn upon other points coming under Collector's cognizance in other departments of his office, such as disputed succession, or the rights of certain classes of tenants, or the execution of orders of the Civil Courts.

Directions. 271.

Summary Suits to enforce the execution of written engagements for the cultivation and delivery of INDIGO instituted under S. 6. VI. 23. not coming within the description of cases to which VIII. 31. was intended to apply, are not primarily cognizable by Collrs. under the latter enactment ; but they may still be referred to them for trial and decision at the discretion of the Judge ; and, when so transferred, are to be disposed of according to S. 6. VI. 23.

S. B. II. 21.

Summary Suits instituted under S. 5. V. 30. by persons unwilling to renew their contracts for the cultivation of Indigo, and who may sue in consequence to obtain a release from their engagements, are cognizable by the Civil Courts only, and are *not* referrible to the Revenue authorities.

S. B. II. 22.

SUMMARY SUIT.

SUMMARY SUIT.

The Regulations in force relative to arrears and exactions of rent, apply equally to claims arising from *Maaffee* Land.

Con. 837. Octr. 11, '33, S. B. II. 23.

S. B. II. 24. rescinded ; and no difference is to be made in the admission of summary suits in Maaffee, from Malgoozaree estates.

S. B. Jany. 7, '42.

Assistant is not competent to try summary suits, unless vested with special powers, when he can decide suits referred to him, subject always to such revision, or control, as Collr. may see fit to exercise, and subject ultimately to appeal to Commr.

S. 21. VIII. 31.

European British Subjects can both sue, and be sued, in Collector's Court.

S. 2. IV. 37. S. B. II. 41.

Summary Suits should never be kept hanging on, but be struck off the file on Plaintiff's absence, or be decided ex-parte on non-attendance of Defendant.

S. B. May 26, '33.

As to the period within which it is lawful to sue out Execution of summary decrees, the same rules to be observed as lain down in S. D. A. 1978. Octr. 14, '43. (The case in the event of neglect in prosecution, or any default on the part of the decree-holder, to be thrown out after 6 weeks.) The Decree-holder can bring on his case again by petition, but cannot recover costs of such revival.

S. B. No. 7. June 24, '45.

Collr. to execute his own summary awards under VIII. 31.

Con. 677. Feby. 24, '32.

Judge not competent to interfere in attachment by Collr. in satisfaction of a Summary Award.

Con. 1165. July 20, '38.

The relief prescribed in S. 11. II. 06. to Insolvent Debtors confined under summary decrees, is to be afforded by Collr. ; who is competent to release such debtors on their petitioning and proving their insolvency under the section above cited.

S. B. II. 42. Con. 784. May 17, '33.

Collector should look sharp after the Summary Suit file, and take care that the cases are well and promptly decided. The increase, or decrease of suits should be watched, and the causes of the fluctuations investigated. Erroneous practices, or local abuses, requiring correction and remedy, may thus be discovered.

"*Directions*." 281.

SUMMARY SUIT.

COSTS IN SUMMARY SUITS.

1st. In Suits for Arrears of Rent, or Revenue, the only possible costs are

The value of the Stamp of the Plaint.

Tulubanah for serving the dustuk.

Ditto Ishtihar, if defendant absconds.

Ditto Summons of Putwarree.

Diet money to Putwarree, at 2 annas per diem, to be regulated according to a table of distances.

Where several persons are included as defendants in the same suit, these costs to be charged equitably against the parties cast.

2nd. In Suits for Replevin of Distraint.

Stamps of the engagement to sue, and security bond.

Stamp of the Plaint.

Tulubanah for serving the Summons on the Defendant.

Ditto Ishtihar Ditto

Ditto The Summons on the Putwarree.

Diet money to Putwarree as above.

Costs of attachment at 5 per cent. on the appraised value of the property.

3rd. In Suits for Exaction, or Ouster.

Stamp of the Plaint.

Tulubanah for Summons of Defendant.

Ditto Ishtihar for his appearance.

Ditto Summons of Putwarree.

Diet allowance of Putwarree, or of other witnesses in such cases where their attendance may be deemed absolutely necessary.

There is nothing in the Law, or in the Board's rules, to warrant the levy of Mooktar's fees. The rate of remuneration and its payment, should be left to be adjusted between the attorney and his constituent.

There should be no Tulubanah for issuing Ishtihar for Putwarree. Such charge is illegal, as the course to be pursued by Collr. against an absenting, or recusant Putwarree, is laid down in S. 23. XII. 17.

Rules of Commr. 5th Division, sanctioned by S. B. April 25, '48.

These Costs are exclusive of *Damages*, which may be awarded in addition to costs, in flagrant cases of illegal, or oppressive conduct.

Commr. 5th Division, May 9, '48.

In modification of Sections 9, 10, 11, 13, V. 12., if tenant upon whom notice, or demand, is to be served, shall have no place of usual residence in the Zillah, notice shall be served by affixing it at his mal Cutcherry, or other conspicuous place on his land, or at a conspicuous place in the village.

VIII. 48.

It is the true customary demand, not the actual realization, which is to form the ground of decision. When that is not clearly ascertainable, the Malgoozar must be referred to the Civil Court; the object of summary suits being simply to enforce all clearly lawful demands for rent.

Para. 3. S. B. to Commr. 5th D. No. 156. July 2, '47.

SUMMARY SUIT—EXACTION.

SUMMARY SUIT.

1. No party can claim of right to be heard in appeal in the Revenue Department from the decision of C., D. C. or A. C. in the Summary Suit Court, except by Commissioner, and then only on the ground of irrelevancy of the Regulations to the case appealed.

2. Nevertheless, if a Collr. think that injustice have been done by the decision in a summary suit of any D. C. or A. C. subordinate to him, he may within one month annul, or amend, the decision.

3. After the lapse of one month from the date of a decision in a summary suit by Deputy or Assistant, the Collr. loses all power of interference, and the decision stands subject to the same conditions as a decision passed by C. himself.

S. B. May 30, '48.

Con. 67. Augt. 16, '10, virtually obsolete. The S. B. consider that suits for enforcing the delivery of receipts for rent alleged to have been paid, may be tried by the Collr. and, when proved, decreed with costs of suit.

The decree would be equivalent to a receipt for the rent; that is, proof that it had been paid.

S. B. Augt. 29, '48.

EXACTION.

3. *Suits of Tenants against Landlords for Exaction of more than is due.*

If a Landlord, by legal or by illegal measures, compel his tenant against his will to pay what is not justly and legally recoverable by the summary process, the tenant has his remedy by summary suit for recovery of the sum thus exacted, with or without damages, as the case may be.

The nature of these suits will be best explained by an enumeration of some of the provisions of the law regarding them. If the Landlord extort payment of a demand by confining, or corporally punishing, his tenant, the amount may be recovered in a summary suit.

S. 26. XXVIII. '03.

So, too, if the tenant pay an unjust demand to avoid imprisonment.

S. 33. XXVIII. '03.

Or, if an unjust demand be realized by distraint and sale of his property.

Directions. 274. 275. S. 17. V. 12.

As for *damages* connected with exactions of rent, they are cognizable by the Collectors under VIII. 31. in the same manner, and with the same restrictions, as they were formerly cognizable by the Civil Courts.

S. B. II. 19.

Under S. 14. II. 1795. Jumeendars and Farmers are bound to give *Receipts* for Rent to their Ryotts; and, on proof of such receipts having been refused, are liable to a fine of double the amount. Collr. is the proper authority to hear and determine all such matters summarily.

This Regn. does not extend to the Ceded and Conquered Provinces; but the S. B. have decided that Suits for the enforcement of the delivery of receipts for Rent alleged

to have been paid, may be tried by Collr. and decreed, when proved, with costs of suit. The decree would be equivalent to a Receipt for the Rent, i. e. proof that it had been paid.

SUMMARY SUIT.

S. B. Augt. 29, '48.

4.—*Ouster.*

OUSTER.

This jurisdiction is foundded on C. 5. S. 18. VIII. 19. extended to the ceded and conquered provinces by S. 22. VII. 22, which declares that it is illegal for landlords to oust Khoodkast or other hereditary cultivators of the soil, except under certain circumstances. The S. D. A. have therefore ruled, (Novr. 15, '33.) that in " case of a contravention of this rule, remedy should be afforded by the Collr., on the summary application of the ejected Ryott, by an order for his being restored to possession, and his retaining it, until the process prescribed by the Regn. shall have been observed."

S. B. II. 17.

A Collector ist herefore bound to maintain a Ryott's possession, unless there be out against him an unsatisfied decree for Rent, in which case, Collr. after unavailingly requiring payment, may authorize the Landlord to oust him. In any other case than as above supposed, a ryott can only be ousted by due course of law, that is, by the issue of a regular suit.

S. B. II. 18.

If the Landlord again eject the Ryott, after he has been restored to possession, or othewise molest or harass him, C. 8. S. 32. XXVIII. 03. Empowers the Collr. to punish such oppression by the award of full costs and damages, besides a Fine to Govt.

Directions. 276.

This jurisdiction includes all cases of dispossession from cultivation as between Landlord and Tenant; but it does *not* include such cases when arising between co-parceners in a joint undivided estate. It may sometimes happen, that the case though really between Landlord and Tenant, is apparently between two persons both claiming the right of occupancy. For instance, a Landlord wishing to oust a tenant, may prompt another person with whom he has an understanding to oust the tenant, in such cases the Landlord should be made a party to the suit, and the case summarily decided.

Directions. 277.

There is no summary power of ejectment given to the Landlord, even where the cultivator is a mere tenant-at-will, and has no right of occupancy. In practice this occasions little inconvenience; questions of this sort being adjusted between the parties by considerations of mutual interest.

" *Directions.*" 278.

As, however, the protection of the law seems only extended to " *Khoodkast, and other resident cultivators,*" it may be doubted how far Collr. is bound to interfere in case of ouster of mere tenants-at-will.

Suits for Damages arising from illegal destruction of Embankments, or Watercourses, should *not* be taken up summarily by Collr.

S. B. II. 20.

SUMMARY SUIT.

SUMMARY SUIT. OUSTER.

The S. B. require monthly returns of summary suits, in the form of appendix II. S. B. II. under the heads of, 1st, Suits for Rent, Revenue, or Replevin; 2d, Exaction; 3rd, Ouster. The facilities for the adjudication of these cases are now so great, that very few need remain on the file more than 6 weeks. If ever a longer period than 3 months elapses, a special explanation of the cause of such great delay must be given.

The sole ground of appeal to Commr. is that of irrelevancy of Regn. to the case appealed. The proper appeal on the merits of the case, is by regular suit in the Civil Court.

"*Directions.*" 280.

Con. 890, as to "Jotedar" ryotts, is current only in the Lower Provinces.

C. Jany. 1, '46.

The rule of Para. 40. S. B. II. which declares a Collr. incompetent to entertain the plaint of a Sub-farmer for possession, is rescinded. All differences between Land-holders and their tenants or ryotts, involving the question whether the Land-holder can legally oust the tenant from the land which the latter considers himself entitled to occupy, cognizable as a summary suit, as was ruled by

S. D. A. in Con. 482. May 9, '28. S. B. Feby. 3, '46.

The Revenue Authorities are only competent to take up and try such complaints of illegal Ouster as may be preferred by Tenants against their Landlords, or by under-sharers against their Lumberdars.

S. B. Novr. 24, '46.

PUTWARREES.

5. *Suits regarding Putwarrees,* see "Putwarree," "Statements."

The Putwarree is generally recognized as a servant of Govt., as well as of the Landlord, and the annual production of his accounts is enforced by Govt. for the purpose of protecting the rights of all concerned. Still, the existence of this power on the part of the Landlord is essential for the maintenance of that self-government, which it is of the greatest importance to promote. If the putwarree is remiss in performing his duty, the efforts of the Landlord to keep him to his work, should be seconded.

"*Directions.*" 279.

The sanction of Commr. is only required when Collr. dismisses Putwarree of his own act, without complaint from Landlord.

S. B. June 27, '45.

Suits for Putwarree's wages not to be heard after lapse of one year, except on special grounds, which are immediately after decision to be reported to Commr.

S. B. June 11, '44.

Suit may be brought not only against the Putwarree, when he is employed by the Landlord in the management of his estate, but also against all other native agents of every description, whilst in service, or immediately after resignation, or dismissal, and for any matter relating to the discharge of their respective trusts. (See S. 19. V. 1800 for Benares, S. 37. XXVIII. 03 also Con. 946. April 24. '35.)

Directions. 279.

SUMMONS.—SUPERINTENDENT OF POLICE.—SUPPLIES.—SUPREME COURT.—SURGEONS.—SUTTEE.

SUMMONS, see "Processes," "Resistance," "Warrant," "Charges." **SUMMONS.**

Upon a complaint in writing before M. for any bailable crime, or misdemeanor, which may not appear to require the immediate apprehension of the accused, on the truth of the charge being deposed to by some credible person, M. shall issue Summons to the accused, to be served through the Nazir by a single peon, in the manner provided by S. 2. II. 06. that is, by obtaining an acknowledgment from the party, or his accredited agent, or of any person acting for him during his absence. The Summons should specify the offence charged, and require the accused to attend in person, or by Vukeel, on or before a certain fixed day.

S. 6. IX. '07.

If the party summoned shall not attend, and give bail if required, M. to issue a warrant for his apprehension; and, if he abscond, proceed against him as detailed under "absconding."

S. 7. IX. '07.

On failure to serve Summons, after proof of due diligence, Warrant for apprehension of defendant to be issued.

X. '45.

Thanna Darogah will proceed in much the same way.

S. 24. XX. '17.

SUPERINTENDENT OF POLICE, see "Magistrate III. 2." **SUPERINTENDENT OF POLICE.**

SUPPLIES, see "March of Troops." **SUPPLIES.**

SUPREME COURT, see "Magistrate III. 1." "British Subject, European." **SUPREME COURT.**

SURGEONS, see "Magistrate III. 7 and 16." **SURGEONS.**

SUTTEE. Illegal. (S. 2.) and all Zumeendars, &c. &c. held responsible for the immediate communication of information to the police. In case of wilful neglect, fine of 200 Rs., commutable to 6 months. **SUTTEE.**

C. 1. S. 3. XVII. '29.

On receiving notice that a Suttee is about to take place, Police, to take measures to prevent it, and endeavour to disperse the people; but should the parties assembled proceed to carry the murder into effect, the Police shall use *force*, if necessary, to prevent it.

S. 3. XVII. '29. Con. 749. Jany. 4, '33.

SUTTEE. Should the Suttee have taken place before arrival of Police, they will institute full enquiry, and report to **M.**

S. 3. XVII. '29.

All persons aiding and abetting a voluntary Suttee, to be committed for culpable homicide, and punished discretionally, by fine and imprisonment, with or without labour.

S. 4. XVII. '29. C. 70. Octr. 30, '40.

M. can admit to Bail, or not, at his discretion.

C. 3. S. 4. XVII. '29.

Any person using violence, or compulsion, or assisting at a Suttee when woman was drugged; guilty of murder, and liable to death.

S. 5. XVII. '29.

TALLS. TALLS, and Burdasht supplies. Register of sums advanced for. Collr. advancing money personally answerable unless his successor neglects to realize when due.

S. B. June 5, '38.

Detailed Rules, G. O. April 28, '48. See "*March of Troops.*"

TENTS. TENTS. To be made to last 8 years. G. O. Novr. 18, '29.
Not to cost more than Rs. 400, for a double, and Rs. 250, for a single poled tent.

S. B. March 7, '34. S. B. IV. 184.

An annual Report as to Number, Description, Cost, Age, Present condition, and employment of Tents to be transmitted annually, so as to reach Board before the 1st Octr. of each year.

S. B. IV. 185. 186.

TENURES. TENURES. See "Landholder III."

THEFT. THEFT with wounding, or severe corporal injury, (or above Rs. 300 by S. 4. IV. 20.) to be committed to Sessions. **M.** may also commit if he considers criminal deserving of severer punishment.

C. 2. S. 3. XII. 18.

When above 300 Rs. purchasers and receivers also to be committed.

S. 4. VI. 24.

Theft unattended with aggravating circumstances, but in which the property stolen exceeds 50 Rs. and is less than 300 Rs.;—or a second offence;—(a prisoner's convic-

tion of petty theft not exceeding 10 Rs. not to preclude M.'s cognizance of a charge of theft, burglary, &c. &c. by S. 5. VI. 24.) or the prisoner a watchman, Police officer, or servant of the person robbed, or of the house where theft was committed;—2 years, and a year in lieu of bents, from M.—C. 4. S. 3. XII. 18.

Theft below 50 Rs. and without aggravating circumstances, 6 months, and commutation for bents, under S. 19. IX. 07. as formerly.

C. 5. S. 3. XII. 18.

M. *must* flog juveniles; *may* flog adult males; *cannot* flog women.

III. 44. see "Bents."

Two petty thefts to be investigated as laid down by S. 2. VI. 24., and punishable by M. with 2 years, and 1 in lieu of bents. If there appear aggravating circumstances, the prisoner may be committed.

S. 2. VI. 24.

Cattle Stealing punishable with 2 years, and 30 bents. See "Cattle stealing."

C. 4. S. 3. XII. 18.

M. need not commit a cattle stealer previously convicted of the same offence.

Con. 1273. March 27. '40.

The want of ownership in the thing stolen, does not affect the guilt of the thief.

Con. 803. July 5, '33.

The possession of stolen property, without having received it with knowledge of its being stolen, (that knowledge having been obtained subsequently to the receipt,) is a slighter crime than being a receiver of stolen goods, and should be punished as a misdemeanour not of a very serious character; 2 years and 30 bents sufficient. It is essental, therefore, that on charges for receiving stolen property, the evidence should go, not to the mere fact of possession alone, but to the mode and circumstances of receipt; and M. has discretion not to punish at all, where no criminal act can be fairly imputed to the bonâ fide purchaser, or possessor, of stolen property.

C. 215. Jany. 25, '19.

SUSPICIOUS PROPERTY to be sent in to M. who shall call on the party on whom it was found, to account for its possession. If he cannot satisfactorily do this, M. will detain the property, and issue ishtihar for claimant to appear within 6 months.

(C. 8. S. 11. I. 11.)

If no claimant appear, and party on whom it was found cannot prove that he legally acquired it, the property to be confiscated to Govt. (C. 10. S. 11.) Gold and Silver ornaments to be broken up, and sold as bullion.

C. 11. S. 11. I. 11.

Property proved to have been purchased with stolen money, may be made over to the person robbed.

Con. 604. Novr. 11, '31.

THEFT.

A receiver of stolen property may be convicted, although the thief be unknown, provided the fact of a theft, or robbery, be established, and it be proved that he knew at the time of receiving that the property in question had been obtained by theft, or robbery.

C. 5. S. 4. XII. 18. Cons. 133. Augt. 12, '13. 217. July 27, '15.

The offence of receiving stolen property admits of so many shades of difference, that it is impossible to define with accuracy, the circumstances under which it should be considered of an aggravated nature, or otherwise, which must be determined at the time of trial.

Con. 466. Decr. 21, '17.

It is Bailable. Con. 1237. Augt. 16, '39.

Receipt of stolen Money is *not* cognizable under S. 7. I. 11. relative to receiving stolen "Goods, Cattle, Jewels, or Effects."

Con. 217. July 27, '15.

See "Commitment, V. 1."

The clandestine removal of property from his master's residence by a servant, is theft.

N. A. R., V. 5. 165.

The owner's oath sufficient in the first instance, to fix value of property stolen, provided there is no reason to impugn its truth, on which M. is competent to make such enquiries as he thinks proper, and to proceed accordingly.

Con. 1030. July 29, '36.

Simple larceny in Calcutta and the Hooghly, not exceeding 20 Rs. cognizable by Justice of the Peace, who can sentence to 6 months, with or without hard labour; or commit to Supreme Court. Form of Judgment. Restitution of property may be ordered, and person refusing to restore it, fined 20 Rs., or 1 month.

XXI. 39.

This is extended to stealing in any boat, or from quay, or servant stealing chattel of master, or one person stealing chattel or money from person of another.

III. 42.

A Peon in the establishment of a Govt. officer, making away with money entrusted to, or collected by him, does not come within II. 13.; such an offence is to be considered a misdemeanor, and punishable as such under the Genl. Regns.

Con. 1200. Feby. 1, '39.

1. Whosoever shall be proved to have belonged to any wandering *Gang* of persons associated for the purposes of Theft, or Robbery, shall be punished with not exceeding 7 years.

2. Any person accused of such offence, or of unlawfully and knowingly receiving or buying property stolen, or plundered, by any such Gang, may be committed by any Magistrate within the territories of E. I. C. and may be tried by any Court which would have been competent to try him, if his offence had been committed within the Zillah. THEFT.

3. No Court shall on the trial of any offence under this Act, require any Futwa from any Law officer.

Act. XI. 48.

See "Rewards." "Commitment V. Counts and Charges."

By Mahomedan Law a "Mooltakit" or finder, failing to make public advertisement of a "Lootka" or trove property, is liable to discretionary punishment. Trove property is considered as a trust in the hands of the finder.

N. A. R. I. 308.

THUG. Person charged with murder by Thuggee, or with belonging to a Gang of Thugs under XXX. 36., may be committed to Sessions by any Magistrate, or Jt. Magt. to any Court competent to try such a charge. THUG.

XVIII. 37. XVIII. 39.

Thug means a person who is, or has at any time been habitually associated with any other, or others, for the purpose of committing, by means intended by such person, or known by such person to be likely to cause the death of any person, the offence of Child-stealing, or of robbery not amounting to Dacoity.

Act III. 48.

Thugs sentenced in Native States, a C. S. being present, can be confined in the British Dominions.

XVIII. 43.

On conviction of Poisoning with intent to *rob*, trial must be referred to N. A.

Con. 365. May 7, '24.

Poisoning with intent to *murder*, need not be referred, if Judge thinks 7 years enough punishment.

Con. 755. Feby. 7, '33.

14 years under C. 5. S. 8. XVII. 17. not applicable to administering *intoxicating* drugs, and theft.

Con. 1324. March 21, '42.

Approvers shall first be convicted and condemned at Sessions, that they may act with a rope about their necks.

C. 246. Septr. 22, '37.

THUG.—TITLES OF HONOUR.—TOWNS.—TOWZEEH.

THUG.

On trial of person accused of belonging to a gang of thugs. A Futwah should not be required from Law Officer.

S. 3. XXX. 36.

But a Futwah cannot be dispensed with on the trial of a prisoner charged with specific acts of murder and thuggee.

Con. 1074. Feby. 10, '37

The Oordoo language should be used in Thuggee trials.

C. 241. Augt. 11, '37.

TITLES OF HONOUR.

TITLES OF HONOUR, rules regarding.

S. B. IV. Sec. 27.

TOWNS.

TOWNS. When ⅔ds of the householders of any Town, petition the local Govt. about the repairing, lighting, cleansing, &c. &c. of the town, a Committee can be appointed to levy a rate not exceeding 5 per cent. once a year; to make contracts, appoint servants, &c. &c.

The rate to be levied by M. according to II. 39.

All property found on the premises rated, liable to be sold by M. or J. P. for the rate.

V. 42.

TOWZEEH.

TOWZEEH. *Hâl Towzeeh.* This being for the *current* year, no collections on account of future or past years should appear in it. The first figured column under the head of demand will, in the *May* Towzeeh be necessarily blank, the net balance on the 30th April being passed to the Bukya Towzeeh of the succeeding Official year.

In the first column under the head of demand is entered the gross balance of the preceding months Towzeeh, so that the entries in the last column of the one, and first of the other are identical. To this there is but one rare exception; when a transfer of Mehals occurs in the middle of the year. No remission in a current year's balance, can be carried into effect before April, the closing month of each year; nor can any diminution of balance on this account be admitted during the progress of the year.

The first column under "*Collections*" should correspond with the credit entry under Land revenue, as collections on account of the *current* demand, and must include all the realizations during the month on account of the past kist, or kists in balance, and on account of the current kist, if any is due; but not any collections made in anticipation of an ensuing kist, as such collections are to be distinctly shown in a Memo. at the foot of the Towzeeh. In the second column should be indicated any collections which may have been made in anticipation in preceding months on account of the current kist.

On the reverse of the Hâl Towzeeh should be displayed a Memo. exhibiting the gradual reduction, during the course of the year, of the outstanding land revenue balances of past years.

TOWZEEH.

The Statement should be prepared in the Sudder Office from the "Awarija," and should be compared with the Mofussil Towzeeh; but they will not in all cases correspond, for the Mofussil Towzeeh may have been closed before information was received of a payment made on the last day of the month at the Sudder Treasury.

See "Accounts," "Jummah," "Kistbundee."

Manual. 10.

TREASON.

TREASON. To be tried by any Commission appointed by Govt. M. to report to, and obey orders from Govt.

V. 41.

TREASURE.

TREASURE. Any person discovering treasure, or valuable property buried in the earth, or otherwise concealed, and omitting to notify the same to Judge within a month; to forfeit all right thereto, and the treasure to be restored to legal owners, or confiscated to Govt.

S. 6. V. 17.

Any person finding treasure, and depositing it in Judge's Court, shall, after 6 months should no claimant prove his right thereto, be entitled to the whole under one lac of rupees. All above a lac to go to Govt.

S. 6. 7. V. 17.

Police should, on application being made to them, and if their other duties permit it, afford protection to the dispatch of Treasure belonging to Bankers and Merchants.

S. 23. XX. 17.

TREASURY.

TREASURY.

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TREASURY.

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NOTE.—An "*Accountant's Manual*" has since been printed; but my references to the *original* orders may be found useful.

1.—*Advances*,—see "Advances," "Accounts."

2.—*Audit*,—see "Audit."

3.—*Balances*,—see "Balances."

BILLS.

4.—*Bills*. To be drawn in an unbroken annual series, from 1st May. Collr. should refuse payment of any Bill not bearing a number, or that of a bill previously paid, or such number as may appear an improbably high one. In such cases, Collr. will immediately refer for explanation to the officer by whom the bill purports to be drawn; the responsibility of the inconvenience and delay resting with the officer drawing such irregular bill.

Manual. 36.

Advice of every Bill to *be sent by dawk of the same day*. (A. R. D. April 4, '33,) signed with *full signature*, for comparison with that on the Bill. (This further insisted on Acct. June 3, '48.)

Acct. May 23, '36. *Manual.* 28.

Weekly list of Bills drawn on each Treasury to be also forwarded every Monday.

Manual. 28.

Bills may be discounted when there are assets disposable, at the rate 5 per cent. per annum, or more if obtainable; the amount to be credited to P. and L.

Bill which cannot be paid for want of assets, and is therefore transferred to another Treasury, should be paid regularly by a *new* bill drawn on that Treasury.

No duplicate bill should ever be issued except for Sipahee Remittances, without the previous sanction of the Accountant, and receipt of certificate of non-payment from Treasury drawn upon, which certificate must be submitted to Accountant with application for permission to issue a duplicate. *A duplicate bill cannot be cancelled.*

A. R. D. 490. Augt. 30, '34. *Manual.* 37.

When bill is cancelled, (*which it should not be without sanction of Accountant.* Acct. October 16, '40.) the same to be written plainly across it, and notice sent to the treasury drawn upon. Refund on a bill lost, or mislaid, never to be made without sanction of Accountant, and enquiry whether it had been paid at the Treasury drawn upon, from which a certificate of non-payment must be submitted to Accountant, when applying for permission to issue a duplicate.

TREASURY.

Note of Bill Cancelled should be made in Check Register; and the cancelled bill forwarded as Voucher with Treasury Account.

Its number should not be used again.

Manual. 37. C. A. A. 21. Feby. 10, '36.

When *supply* bills are not discharged at maturity for want of assets, and the holders decline the option of receiving exchange bills on neighbouring Treasuries where there are funds, interest must be paid upon them at the rate allowed on the Govt. Loan open at the time, which is to be the maximum, except in special cases, where the Accountt. may deem it proper to allow a higher rate of interest for the convenience of the public service; in such cases the authority for the payment should be cited invariably, both in the receipts and in the Treasury Accounts.

Charges for interest must be made under "By interest," upon audited bills, which, prior to audit, must be sent to Accountant for counter signature.

When payment of a bill has to be refused from want of assets, the fact and the date, should be noted on the face of the bill; and the period for which interest is claimable should be calculated from the date of presentation after maturity. Advice of every bill so noted should be sent to Accountant; and care must be taken to pay off all such bills as soon as ever funds are available.

Manual. 47.

This only applies to *Supply* Bills. Parties holding mere accommodation bills, are *not* entitled to interest on those Bills, when not paid at maturity for want of assets; and, on certification of a want of assets, a Paymaster's Bill *must*, on such occasions, be sent for payment to, or an exchange draft given on, the *nearest* Treasury where Funds are available.

Acct. May 15, '49.

Writers attached to Calcutta College studying in the Mofussil, to be paid on their audited bill; the amount to be debited to Bengal, under head, "Writers attached to College," subordinate to "Charges General, Genl. Departt."

Accountt. Feby. 17, '36.

Premium paid for Bills *not* to be returned in general, on occasion of such bills being cancelled, and their amount refunded.

Accountt. June 1, '35.

Check Register to be most carefully maintained. See "Accounts."

March 1, '33. *Manual.* 19.

A new Heading to be opened in it for "Name of Payee."

Acct. Septr. 29, '48.

Payment of a Bill can only be made at the Treasury upon which it is drawn, and to the holder. On payment, receipts should be taken in duplicate, one on the back of the bill itself, and the other separate. In cases of part payment, the same should be acknowledged upon the bill.

Manual. 31.

TREASURY. BILLS.

Date of Presentation should be stated on the face of each Bill drawn at a usance.

Manual. 38.

No bill to be refunded, without sanction of Accountt., with exception of those to Sipahees, and Bills returned unpaid for want of Assets. Officers should be very careful not to throw discredit upon the negotiations of a Public Treasury on insufficient grounds.

Acct. Octr. 16, '40. *Manual.* 36.

Weekly return of Bills drawn, and course of exchange, to be sent to Accountt.

Acct. Septr. 4, '41.

In furnishing Certificate of non-payment of draft, Collr. to state whether or not the original draft had ever been presented, or accepted, at his office.

Acct. Augt. 21, '46.

A Duplicate Bill must be the exact counterpart of the original; the same date, number, Payee and Amount. No alteration can be permitted. The word *Duplicate* must be written conspicuously in red ink.

Manual. 37.

Collr. to furnish Accountt. with *weekly* advice in annexed form, on the last day of every week, showing the bills issued on other Treasuries, with rates of exchange on other places. On the reverse is to be added the various gold and silver coins, with their intrinsic and exchange value.

Acct. Septr. 4, '41.

The mere signature of Payee on the back of a bill is sufficient endorsement to justify payment of the bill to any one who may possess it.

Manual. 58.

When the Holder of a Bill is not known as a respectable person, and any suspicious circumstances, or irregularity appear, Security may be demanded before payment; but no security should be required except in a particularly doubtful case.

In all cases of doubt, the Officer by whom the Bill purports to be drawn, should be applied to.

Manual. 36.

The utmost carefulness must be exercised to avoid double payments, as the disbursing Officer will be held personally responsible for the amount.

Manual. 37.

If in the indorsement, any third person be named, that person must sign his name to the bill, before it can be negotiated, or paid.

Manual. 58.

TREASURY.

Bills Civil.—Bills to be granted to absent Civilians for pay due, at par, if on medical certificate; and 1 per cent. premium if on private affairs.

Manual. 32. G. O. June 9, '34.

Bills to Judges for sums realized on Decrees, with a reference to the parties and No. of suit, for another Court.

A. R. D. 389. Feby. 10, '30. *Manual.* 32.

This does not extend to Deposits, except upon special sanction of Accountant in each case.

Manual. 32.

Civil bills (Surgeons and Military Officers holding civil offices included by C. 381. Octr. 31, '29.) to be granted *only on the General Treasury* in Calcutta, and at 1 per cent. premium. They cannot be granted on Mofussil Treasuries.

Manual. 35.

Bills of Officers on Deputation, at par, on the Treasury to which they are deputed.

Manual. 32.

Bills to be granted to Magistrates for public purposes, which should be stated by Magistrate in his application.

C. 403. Augt. 7, '30. *Manual.* 32.

Do.——————— to Departt. of Public Works, at par, for bonâ fide public purposes, such as the purchase of materials, &c. &c.

C. 438. Octr. 18, '32. *Manual.* 32.

Do.——————— to Postmasters, at par; and at sight, for dâks and demurrage.

392. March 16, '30.

In every Bill the Collr. should insert the particular purpose, or purposes, for which the bill is required, either on the back, or in the body of the draft. Any application not stating the purpose for which the bill is requested, to be rejected; as also such as require several bills in favour of the same Postmaster, or on the same Treasury, on the same day.

Accountt. July 24, '47.

Bill may be given to Commr. on the Zillah where any of his Establishment may be.

A. R. D. May 7, '33.

Bills for Deputation, allowance to be granted on the Treasury of the District to which an officer may be deputed, after audit by C. A. The zillah on which the bill is drawn, to be credited with amount. Date of this Circular, and Month for which the allowance is due, to be stated in the body of the bill, which will be at sight, and at par.

394. April 1, '30.

TREASURY. CIVIL BILLS.

Salaries of deputed Civilians falling due by advertisement prior to receipt of audited abstract, may be transmitted in a bill, without audit; any retrenchment on audit to be deducted from salary of succeeding month.

416. May 13, '31.

BILLS MILITARY.

Bills Military, for Pay and Allowances, and sale price of Bungalow; to be granted at 10 days sight, and at par.

424. Decr. 31, '31.

These bills, whether to European commissioned Officers, or to the Soldiery *are ordinarily grantable only at the issue of Pay, and in part payment thereof.*

Manual. 33. G. O. Septr. 8, '41.

The indulgence granted to Native Officers and Sepoys, 10th April, 1810, of obtaining Bills on public Treasuries at par, formerly extended to Native Doctors, but not to Camp Followers, is cancelled, and only Gun Lascars, as fighting men are entitled to the indulgence.

G. O. Feby. 11, '48. See "Sepoy Remittances."

Collectors and Pay Masters are *directed to refuse Bills* to any Officer, whose application does not contain a specific declaration that the sums so tendered are bonâ fide savings from their pay and allowances, or amount sale of a Bungalow.

G. O. of G. G. in Military Departt. May 17, '22. *Manual.* 198.

Bills can be given to Regiments for Mess and other Regimental purposes, upon the applications being accompanied by Certificates from Comdg. Officer, that the required remittances are bonâ fide for the specified purposes.

Manual. 33. S. B. IV. 216.

Bills for Pay and Allowances of Officers and men absent on leave, or on duty, to be *at sight.*

Acct. April 29, '41. *Manual.* 33.

An Officer suddenly leaving a station, is entitled to a bill on the station to which he is proceeding, for an amount equal to his monthly pay and allowances.

Manual. 33.

Exchange drafts can only be claimed when the Payee has intermediately been removed to another locality.

Acct. July 29, '43.

Both Officers and Sepoys are entitled to bills on other treasuries in exchange for family remittances regularly granted payable at that treasury.

Manual. 33.

In granting Bills, Collr. should make it an invariable rule to indicate therein the name of the individual at whose instance they are issued, either as Payee, or as the

party by whom the bill was applied for, or its amount paid. The name and rank of the Officer, or Sipahee, making the remittance, must be distinctly indicated; and, in all cases, the orders under which each Bill is issued, must be carefully quoted.

TREASURY. BILLS MILITARY.

A Nota Bene as follows: "This bill is claimable only from the Collr. of ——— unless he certify that assets are wanting, in which case it must be sent for payment to the Collr. at whose treasury money is procurable," to be added at the foot of all Bills issued to, or on account of, Military Officers.

Acct. Novr. 17, '48.

At stations where a Divisional Paymaster is located, the duty of granting Bills to the Military, is confined to him for *Company's Troops;* but Exchange drafts, and Bills to *Her Majesty's Troops* must, in all stations, be granted under the rules by the Officer in charge of the Revenue Treasury.

Manual. 33.

Bills Miscellaneous. Persons out of the Services, are not entitled to Bills at all, except under special instructions. The rate of such Bills to be at par, except when otherwise directed.

BILLS MISCELLANEOUS.

Acct. Feby. 8, '36.

Collr. should endeavour to effect remittances through Shroffs, *at par*, to the treasuries noted in the margin,* the money being paid by the Shroff, and an acknowledgement in duplicate given him. Such Remittances to be noted to S. R. in a Memo.

* Jounpore, Benares, Cawnpoor, Allahabad, Furruckabad, Agra, Muttra, Alligurh, Mirzapore, Delhi, Meerut, Mynpooree.

S. Resources, Novr. 29, '33.

Collr. should endeavour to obtain a premium on such bills, if possible. No discount, under ordinary circumstances, should be thought of. The rate of exchange should invariably be inserted in red ink between No. and amount, at the top of the bill, with number and date of Accountant's letter. It is generally preferable to increase the amount raised by Bills, than to diminish the rate of premium.

Acct. July 14, '43. *Manual.* 35. 50.

Discount should never be given without the special sanction of the Accountant.

Manual. 50.

Collectors authorized to raise money by drafts on General Treasury, and those above mentioned, in sums of 500 and upwards at 10 days sight, at the rates of discount noted.

They are also authorized to comply with the applications *of all parties* for drafts upon the same Treasuries for sums above 500, and under 5000, at par and 15 days sight. This may be changed to 3 days sight, when there is plenty of money in the Treasury drawn upon. Applications for 50,000, to be referred to Accountant. Constant communication to be kept up, so as to know the state of other Treasuries.

Acct. April 7, '45.

Every accommodation should be given to native Shroffs, and the Public generally,

TREASURY. BILLS MISCELLANEOUS.

when the issue of supply Bills is allowed, and care should be taken that in the payment of such bills no vexatious delay takes place.

Manual. 35.

Discount should be calculated on the amount of a Bill, which sum should be credited in full, and the Discount debited per contra, first in the J. B. and finally under P. &. L. upon audited bills. The Bills for discount should be sent monthly to Accountant for countersignature ; and after examination he will procure their Audit and return them, when they will be charged in the body of the Treasury Account, and the J. B. relieved.

Manual. 50.

BILLS CONTINGENT.

Bills Contingent. No delay should be permitted to take place in obtaining requisite authority for the amount of all Contingent Charges, which should be kept as low as possible.

All Contingent Bills should be submitted monthly for Audit ; and they should be forwarded for check and countersignature to the Commr., Judge, or other revising authority as soon after the expiration of each month as may be practicable, so as to secure the adjustment of the charges within the month succeeding that to which they appertain. All sums retrenched from a Contingent bill for want of explanation, or other cause, should be immediately transferred to a Supplementary bill under the requisite authority, or a re-imbursement made to Govt.

Manual. 41.

Commr. can countersign,

1st, Payment of any sum regularly decreed by a competent Court of Justice.

2nd, Contingent charges for carriage of public records, office furniture, &c. &c. and other miscellaneous items to the extent of 500 Rs. (See Paras. 36 to 44. S. B. IV.)

3rd, Law charges to an unlimited amount.

4th, Charges for Kham, or Court of Wards' estates.

5th, Temporary Establishments for division of an estate for Public Revenue.

Authority of the Board must be previously obtained and quoted, before Commr. can countersign bills for, 1st, Tents to amount of 650 Rs. ; 2nd, Temporary Establishments to unlimited amount, not exceeding a period of 6 months ; 3rd, Arrears due to deceased Pensioners.

Commr. of Kumaon's competency limited to 100 Rs.

Special Commissioner's authority unlimited for passing Maaffee refunds.

Collr. of Customs can sanction 100 Rs. a month for Rewards for special services.

Magt. may incur expense for white washing Jail and Hospital, whenever he may consider it expedient, suitable, and convenient. He should check and countersign Doctor's bill for bazaar medicines.

Commr. can countersign **M.**'s Contingent bill for miscellaneous expenses, to the extent of 100 Rs. a month. Jail expenses to the same extent, countersigned by **S. J.** Commr. can also sanction extra establishment of **M.** for 6 months ; and extra police, &c. &c. when absolutely necessary to preserve the peace.

Military Contingent bills to be submitted separately to **M. A. G.** for audit.

Manual. page 41, 42, 43.

TREASURY.

5.—*Cash Balances. Assets.* In exhibiting his actual Cash Balance, which should never exceed Rs. 3000, M. should show the currencies of which it is composed. TREASURY. CASH BALANCES.

431¼. July 26, '32.

A weekly Memo. of the state of the Cash balance in silver current coin, to be despatched every Monday evening, or by Tuesday's post at latest; and the Accountant should be early informed of any estimated deficiency of Assets.

Acct. Jany. 27, '44. March 13, '47, *Manual.* 47.

If Collr. has not cash to pay both Civil and Military charges, he must refrain from paying any *civil* abstracts until the Military demands are fully satisfied.

Acct. *Manual.* 46.

As long as the *Military* charges of the month are provided for, no retention of funds for any future charges should be made. All bills and other demands should be discharged promptly so long as *any* funds are forthcoming.

Information of any estimated deficiency of Assets should be sent as early as possible to the Accountant, noting the exact Cash Balance in hand, and estimating every head of receipt and disbursement with great care, so that no sum of probable receipt, or disbursement, may be omitted.

Manual. 47.

When all the receipts and disbursements have been entered, the Cash Balance, as shown by the cash balance report, must be entered on the creditor side of the account, and this, added to the S. B. which must be given in detail, every item separately, should close the account. If it does *not* do this without balance, it is manifest some error exists, and the probability is that this is in the account itself, as the amount transferred from the cash balance report, having been already checked in the accounts from which that is framed, is necessarily less liable to incorrectness. The Accounts *must be sifted and re-examined until accuracy is obtained. This must be done;* and in no case can the smallest alteration in the actual Cash Balance be permitted, in order to close the account. The proof of accuracy is in the balance; and it must be recollected that even the most trifling difference may be the result of a variety of mistakes, and merely represent the excess of errors on one side of the account over those on the other.

See "Treasury 21." *Manual.* 21. 22.

Bills of exchange may be transferred by a Collr. from his own Treasury to a neighbouring one, when his Assets are insufficient. The best mode of transfer is to grant an exchange bill for the amount. The Accountant should be informed.

Manual. 47.

6.—*Charges.* Previous to Collr.'s entering Charges on account of drafts, he is carefully to ascertain that the endorsements, receipts, and insertion in English of the names of Native payees and endorsees, are not wanting. CHARGES.

Acct. May 30, '43.

TREASURY. DEPOSITS.

7.—*Deposits.* Chokeydaree Collections,—Rules for crediting and debiting.

431½. July 26, '32. *Manual.* 48.

Deposits of Cash, accepted as security, can only be received on the understanding that no interest will be allowed upon them.

S. B. IV. 222.

The Board disapprove of the practice of receiving sums in deposit from parties against whom Government has no demand; and, in the event of loss, the Collr. receiving such deposit will be held personally responsible.

S. B. IV. 224.

Civil Court Deposits, see detailed rules.

Acct. Octr. 16, '45.

The general principles of these rules, applicable to Collrs. Every sum paid into the Treasury, must appear in the accounts.

In the receipt of revenue deposits, the rules in paras. 4 to 8 are to be followed. No money is to be received without an order which will be abstracted into Collector's roznamcha, the order having previously been taken to the Treasurer, and jummah khurch nuvees, or other person whose duty it may be to keep the deposit registers in the vernacular. *The transactions of each day must be registered in the three languages, on that day; no arrears are to be permitted.* Receipts are, when practicable, to be given to the depositors, and no payments, or transfers, are to be made without a separate warrant in favour of each payee, and on account of each distinct deposit; nor any payments be allowed to be made from the Tuhseel Treasuries by means of the Treasurer's private assignments upon tuhseeldars.

Acct. Octr. 16, '45. *Manual.* 48.

Items of Deposit not to be credited to Government, unless they have remained unclaimed for 20 years, unless they belong to other heads of account, and have been erroneously held in deposit. To prevent, however, a large accumulation of unclaimed items; all those which have remained 5 years, and are not likely to be claimed, should be charged in detail, and transferred in one aggregate sum to credit as a fresh deposit, bearing a single number, and at the end of 20 years such portions as may continue unclaimed can be transferred to P. and L.

Acct. May 17, '47.

Deposits, if not claimed within 7 years, to be transferred to P. and L. and not to be repaid without the sanction of Govt.

G. O. Augt. 18, '32.

It should however be borne in mind that Government does not wish to cheat the owners of unclaimed deposits, who should be carefully sought out in vain, before the item is transferred to P. and L. The bare fact of a deposit being unclaimed for 20 years does not authorize the transfer.

All Deposits should be used as a portion of the Cash Balance.

TREASURY.

They should never be received by Tuhseeldars, or other subordinate officers, from private individuals without authority previously obtained; and when so authorized, should be regularly transferred to Sudder Deposit Account.

Manual. 47. 17.

(This is a Head which requires to be *very carefully* looked after, as it is the one most open to embezzlement. Under existing rules there is little certainty as to sums *ordered* to be received, and placed in deposit, being actually credited in the Treasury accounts under that head. I have therefore found it useful to keep a "*Deposit Order Book*" in which the Date, Amount, and Purpose of every item, is entered and signed at the time of giving the order, *by the Officer issuing it*. It then only remains for the Depty. in charge of the Treasury, to see that every item so entered is duly credited in his accounts, and to countersign the entry with his initials. See "Officer in charge of Treasury.")

Registers for receipts and repayments of Deposits. These Registers were instituted to correct the omission to bring to credit items of Deposit, in consequence of repayment taking place within the month. They should be kept with very great care.

Each *item* of deposit must be entered separately, immediately it is made, and have a distinct number, which identical number must be preserved in both registers. There should be one unbroken series of numbers for the official year; and in charging a Deposit in the register of repayments, the entry should invariably possess the same number as that allotted to the credit on the same account in the register of receipts, and this course must be pursued whether the payments be in whole, or in part; it being necessary that the several payments on account of any deposit should be easily referred to the sum at credit, in order that double, or exceptionable, payments may be effectually checked and prevented. The repayments in N°. B. should not therefore be noted in numerical order, but daily as they are paid.

In a Judge's deposit register, 3 additional columns are required, in order to distinguish the deposit transactions of each Moonsiff; who should have a separate series of numbers of his own; so the deposits of every Moonsiff bear in the Judge's Register two numbers; one that of the regular series of the Judge's Register, the second the particular number appertaining to the subordinate register of each Moonsiff.

The entries must be made daily as they occur; and even if one item of deposit be either paid in, or repaid, on two successive days, the entries should be double and separate, not single and in the aggregate.

The only exceptions to this are when deposits are made on account of Road Fund, District Dâk and Tulubana, all of which should be credited in the aggregate on the last day of the month.

Each item of repayment should be separately numbered in red ink, and have its appropriate voucher (bearing a similar red ink number) which is the receipt of the party, except when the repayment is a transfer, in which case an attested copy of the Treasury warrant is the proper voucher.

Manual. 11. 12.

TREASURY. FINES.

8.—*Fines*, see "Fines."

Monthly statement of Fines, pending, imposed, and realized, to be transmitted according to form.

Fines should be credited under the head of the Department for which they were imposed. Fines realized and brought to credit, are not refundable without written sanction of S. J. or Commr. After sanction they should be included in Contingent Bill for audit and charge.

Manual. 52. Acct. March 20, '43.

FORMS.

9.—*Forms.* Monthly Statements and Cash Account, with the necessary vouchers to be transmitted by 10th of succeeding month, or Accountant will report neglect to Government. See "Statements."

Acct. Decr. 21, '41.

If a return cannot be sent on the date fixed, a letter should be sent to explain the cause, and say when it will be sent.

If there is nothing to be reported, still blank form should be regularly sent.

Periodical returns to be sent without any accompanying letter.

Manual. 4.

Ditto Postmasters.

Form of "Estimate of Receipts and Disbursements."

Acct. Jany. 18, '42.

Form for reports of Pensions. Ages of Life Pensioners to be carefully ascertained. Pensions in perpetuity distinguished from life pensions. Orders, whether of Government, Board, &c. &c. to be distinguished. A short clear history of the pension to be given.

Acct. April 20, '42.

Expected Receipts by Cash Remittances to be noted in Estimate.

Acct. June 10, '42.

Also all empty Treasure boxes and bags.

Acct. Septr. 12, '42.

Memo. of Bukya Balances to be given on the reverse of monthly Hal Toujeehs.

Acct. June 13, '43.

The estimates of Receipts and Disbursements to be very carefully drawn out, and in detail, as to whence remittances are expected, or where they will be sent, and to include Inefficient Balance; so as to present a just statement of the prospects of each Treasury, to enable Accountant to control the resources.

Acct. Novr. 18, '43.

Estimate to have in two lines in red ink, the amount of expected Cash balance in full weight re-issuable rupees, and ½ and ¼ rupees; and in uncurrent coin.

Acct. Decr. 13, '43.

TREASURY.

FORMS OF RETURNS. See "Accounts." TREASURY: FORMS.

Weekly, Memo. of current Silver coin. List of Supply bills drawn. Extract from register of subscriptions to Govt. Loans.

Monthly, Cash Balance Report. Estimate of probable Receipts and Disbursements. Treasury Account. Hal Toujeeh. Abstract statement of Tulubanah. Fine statement. Extracts from Registers of Receipts and Repayments of Deposits. Extracts from Registers of Interest paid on Govt. Loans.

Quarterly, Inefficient Balance Report, to be sent 25th Augt., Novr., Feby., May.

Annual, General Treasury Account, 30th June.

Pergunnawar Kistbundee, 15th May. See "Kistbundee," "Remission," "Rentroll."

Jumma Wasil bakee, 30th May. See "Jummah."

Comparative statement of Jummah; 1st June.

Bukya Toujeeh, 15th June. See "Balances."

Tuccavee Advances, 10th June.

Abkarree Jummah wasil bakee, 30th May. See "Abkarree."

Report of progress in decision of Civil Suits. 31st May. See "Suits of Govt."

Account particulars of Pensions. 15th June. See "Pensions."

Account particulars of Balance of Deposits. 10th July. See "Treasury No. 7. Deposits."

The Forms kept in Collr.'s office, but of which no copy is furnished to Accountant, are, Siaha, Awarija, Jummah kurch, Abstract of daily receipts and disbursements, Check Register of Bills payable, Registers of Bills granted, Family Remittances, Govt. Promissory Notes, Treasury warrants, and Receipt Book. See "Accounts."

Manual. 5.

10.—*Funds*, Civil, Military, Medical, Road, Ferry. FUNDS.

Remittances to Sub-Treasurer of Civil Fund to be discontinued, and all circulars on the subject cancelled.

Subscriptions ordinary and extraordinary to be clearly shown in monthly Treasury accounts, and subscriptions derived from salaries to be shown separately from those of deputation and extra allowances.

Charges for refunds of excess credits, or other causes, to indicate the particular party, period, and amount, distinguishing ordinary from extraordinary, and debits to be supported by receipts of the party.

Acct. April 26, '43.

In remitting subscriptions to Medical Fund, name of Sub-Treasurer to be inserted as Payee, and the bill sent to Secretary of the Fund.

Acct. Novr. 20, '43.

The names of the subscribers should be detailed in full, with their rank, the periods, and the sums remitted on account of each party.

Cuttings for Funds from extra allowances, should not be mixed up with those derived from substantive pay.

Uncovenanted subscribers to Family Pension Fund, to have the cutting entered at the foot of the abstract, when it will be carried to its proper head of account.

Manual. 53.

TREASURY. FUNDS.

Unauthorized Funds are sometimes formed for public purposes, with honest and even most praiseworthy intentions; but they are highly objectionable in principle. They have also been prohibited by the Court of Directors, and by C. 90. Octr. 8, '41.

Directions. 329.

ROAD FUND.

Road Fund, to be entered in a separate entry under the head of Deposits, the amount being shown in a separate Memo. at the foot of the monthly returns submitted to Accountant; and the Charges passed only on the signature of the Commr. as Ex-Officio President.

S. B. IV. 223.

The Road Fund Committee is constituted under G. O. Feby. 10, '41., and is vested with the charge of all the Roads in the district, except those which may be maintained by Govt.

The Collr. is ex-officio Treasurer, and is bound from his position to take a prominent part in the proceedings of the Committee. He is responsible that the faith pledged to the proprietors of land at the time of Settlement, is fairly kept, that they are exempted from all requisitions to repair the roads themselves, and that the roads are kept by hired labourers in proper repair for them. It is only after this primary object of the Fund has been amply provided for, that any surplus money which may remain can be appropriated to the improvement of the main lines of communication, by the erection of Bridges, or by raising and metalling the road. See "Roads and Road fund."

Directions. 337.

FERRY FUND.

Ferry Fund. Under G O. of July 24th, 1846, M. will bring to credit under "Ferry Fund," all collections made on account of the public ferries in the gross, and debit per contra all charges incurred for the maintenance of the ferries.

When ferries are let in Farm, the collections are to be brought to credit as they are realized from the farmers; and in such cases, no charges are incurred by M. debitable to the Fund.

When, however, any ferry is held kham, the entire receipts at the ghat of every kind are to be brought to credit, and the charges incurred for the construction, repair, and hire of boats, and for the maintenance of establishment, together with contingencies, are to be debited in cash account under "By Ferry Fund," supported by a detailed statement which should accompany the Contingent Bill, in which the aggregate charge will form an entry under "Ferry Charges," and will be admitted under the counter-signature of the Commissioner.

In kham management, the charges are left to M.'s discretion, to the extent of the gross collections of the ferry, so long as the money is appropriated to the improvement of communication across the Ferry or Bridge. M. will therefore be careful that no charges not strictly of this nature, are debited against the monthly collections.

The Memo. of state of Current Ferry Fund, carried on through the official year, will terminate at its close, and a fresh Memo. be commenced for the new year. The balance of the past year not to be brought forward, as it will be appropriated as surplus for allotment under G. O. Feby. 10, '41.

Commr. may sanction an establishment of 150 Rs. per mensem, or an estimate for any one work to the extent of 500 Rs. The same for Road, and Local Agency funds. See "Roads," "Nuzool."

Manual. 52. 42.

TREASURY.

TREASURY. GOVT. PAPER.

11.—*Govt. Paper.* Govt. Promissory Notes presented at a Mofussil Treasury for interest, must, in the first instance, be transmitted to Accountant General, for the interest to be made payable exclusively from that Treasury; and Collr. is strictly enjoined not to pay interest under any circumstances, on any Govt. Promissory Note, which does not bear upon the face of it, orders from A. G. for the payment at his Treasury.

A registry is to be carefully kept of such notes, with all particulars detailed.

422. Octr. 8, '31. *Manual.* 20. 55.

At the request of Proprietors of Promissory Notes, Collr. should transmit to the Deputy Accountant General in Calcutta, Notes, the interest of which it is wished should be paid at his Treasury. The D. A. G. has discretionary power to authorize, or refuse compliance.

Manual. 55.

The sums paid on account of each distinct Loan must be separately exhibited in the accounts, with reference to the registered numbers of the loans which the securities respectively bear.

Manual. 55.

Interest on Govt. paper belonging to deceased E. B. S. is payable to such persons only as shall produce either probate or letters of administration granted by Supreme Court.

When the deceased was not a E. B. S. the production of probate or letters of administration, as in the former case, or of a certificate granted by a Civil Court under XX. 41, and containing an express power to receive interest, must be produced by claimant before Collr. can pay interest.

The renewal of Govt. Promissory notes in the name of the legal representative of a deceased party, prior to payment of interest, is not necessary.

Acct. Augt. 7, '46. *Manual.* 56.

Duplicate of lost Loan acknowledgement never to be granted except under special instructions previously communicated from the Loan office.

Interest not to be paid at any Treasury, unless specially authorized by an entry on the face of the paper, and only according to date at the head of the Note, and the terms of the Loan notification.

All reference to be made to "Deputy Acct. Genl." at Loan office, Calcutta.

Acct. Septr. 26, '46.

To obviate delay in the issue of Promissory Notes in lieu of Loan acknowledgements, and the necessity of forwarding blank returns; instead of sending *weekly* Registers of Loan acknowledgements issued from his office for subscriptions to Govt. Loan, Collr. should make it an invariable rule in future to send the Register along with the Loan acknowledgements which he transmits for Promissory Notes to the Dept. Acct. Genl. transmitting at the same time a copy of such Register to Agra Acct.

Acct. May 1, '49.

TREASURY. GOVT. PAPER.

5 per cent. Loan, Rules regarding; G. O. Octr. 5, '46.
Rules for broken interest.

Acct. Decr. 7, '46.

Government Paper deposited in pledge on any public account in which Govt. is interested, must be transmitted to Collr. of Agra for safe custody—Rules.

Acct. June 22, '47.

Weekly Register of Loan acknowledgments, as per form, to be sent to Accountant General. Counterpart to be sent to Accountant.

Acct. May 10, '41.

Payments of Interest to be carefully entered on the back of the Note, and a separate receipt in English should be taken. Such payment should on no account be made without the presentation of, and endorsement on, the Note.

Manual. 55.

Trusts, executorships, &c. &c. not to be recognized; but the names of parties holding the sums must be entered absolutely, without reference to their relation to others.

Manual. 56.

Collr. should enclose Promissory Notes in English paper, and then in waxcloth, before sending them by dawk. Holders of Notes can have them registered by Collr. before sending them by dawk, which will enable them to get a duplicate in case the note is lost by the dawk.

Parties, on application to Collr., and on giving in their Notes, with receipt, can have the interest due remitted from Calcutta. Parties depositing their Notes with Government Agent can also have their interest remitted, on payment of the usual fees.

Manual. 57.

The calculation of anticipation interest, (agreeably to Para. 7. of Govt. Notification of March 31, '41.) for broken period between the day of the deposit of Cash in the Treasury, and the 30th June, or 30th December succeeding, should be regulated by the number of months and days intervening, not by the number of days only. For instance, if subscription be made on the 7th of April, the interest must be calculated for 2 months and 24 days, and not for 85 days, inclusive of the day on which the money is tendered.

Manual. 56.

The Fees on the receipt and remittance, or investment of interest on paper deposited, are 4 annas per cent. on the whole transaction. On receiving each Promissory Note into deposit, if the sum do not exceed 10,000 Rs. the fee is 5 Rs; if it exceed 10,000, the fee is 10 Rs.

The fee of 1 rupee is required on the renewal, and consolidation of all Govt. notes. On their sub-division, a fee of 1 Rupee is levied on each note taken out by the party applying for the sub-division.

Manual. 57.

12.—*Inefficient Balance.* If any item should appear in I. B. for which there is no proper voucher, and which cannot be rectified at the A. R. D.'s office, it will be placed to the personal debit of the disbursing Officer.

TREASURY. INEFFICIENT BALANCE.

360. March 31, '38. 404. Augt. 9, '30.

A minute account of measures already adopted with regard to the removal of any items from the I. B. to be given by Collr., with a specification of the causes of the non-adjustment of such balances, and the names of the disbursing officers, with the means of recovery, or final adjustment, although the proper channels of authority may have been lost, or delayed.

368. April 24, '29.

When Commr. visits a station, he should examine the I. B. statement, and issue such instructions as may seem necessary as to any items for the adjustment of which proper measures may not have been taken.

S. B. IV. 209.

Any Inefficient Balance left unadjusted by previous Officers, to be speedily adjusted by their successors, who will otherwise, in case of neglect, become jointly responsible for any loss to Government. This rule is applicable to Postmasters and all other Public Officers in the Revenue and Judicial departments.

Acct. Augt. 27, '47.

Quarterly report to contain in Remarks, a specification of the dates on which bills were sent for countersignature, or audit; and the Foujdaree I. B. item entered therein, should show the expenditure of each month distinctly, with a clear explanation of the dates on which measures were taken to adjust the amount.

Acct. Decr. 15, '47.

Every Officer should constantly scrutinize the items of his I. B., and give unremitting attention to procure an adjustment of every disbursement as early as practicable, to clear the accounts, relieve officers from responsibility, and obviate delay in giving Officers certificates of no demands.

All disbursements made by Deputies and Assistants must appear at the debit of the head of the Office, who is responsible. See "Treasury, No. 13, Officer in charge."

Manual. 59.

13.—*Officer in charge of Treasury.* No Officer will be allowed to embark for England, without having obtained from the Revenue and Judicial Accountant's office, &c. &c. a certificate that there are no demands existing against him of any nature, personal or public; or, if existing, until he shall have given approved security to Government for the whole amount of advance standing unadjusted against him.

OFFICER IN CHARGE.

426. Feby. 1, '32.

The Officer who had principal charge of office must be considered responsible for any unadjusted items, and not the Assistant, or Deputy, to whom he may have made over charge, unless under the sanction of Government.

C. A. A. 1315. Augt. 22, '38.

TREASURY. OFFICER IN CHARGE.

No officer shall make over charge of a Treasury to a successor, without furnishing him with a detailed and comprehensive statement of the Cash, and I. B. of his Treasury, and of the causes which have prevented an adjustment of the items of the latter balance, with specific references, in the case of each item, to the substance and dates of correspondence, applications, or instructions, the circumstances which may have caused the disbursement, or produced the protracted continuance in balance, and every particular likely to facilitate adjustment. A copy of this statement is to be forwarded to the A. R. D. with the certificates of giving and receiving charge.

393. March 31, '30. *Manual.* 80.

A Memo. of Stamps is to be attached at the foot of this statement.

397. April 30, '30. *Manual.* 81.

Culpable remissness on the part of the relieving Officer, will render *him* responsible, jointly with the Officer who incurred the charge, for any loss to Govt. in Inefficient Balance.

Acct. Augt. 27, '47.

His attention must be awakened to the necessity of constantly scrutinizing the items of his Inefficient Balance, and of procuring adjustment of them. If careless, he must be reported to Govt.

Manual. 80.

Government having authorized Collectors to transfer charge of the Treasuries to IX. 33. Depty. Collrs.; the Collr. will understand that this authority is exercised on his sole and entire responsibility, and that he cannot, under any circumstances, divest himself of any portion of the pecuniary liability attached to his office.

S. B. IV. 215.

Collr. is personally responsible for the Treasure in his charge. In the event of any Embezzlement, or loss, occurring, he may be called upon to make good the amount, unless he can prove that he observed all the prescribed and usual safeguards against the loss, and that it occurred from circumstances beyond his control, or which could not be ordinarily calculated upon. It should be an invariable rule never to leave at the entire disposal of the Treasurer a larger sum than may be sufficient for the disbursements of a few days; and considerably within the amount for which he has given security. If Collr. observes the prescribed rules regarding the Siaha, and daily see that it is brought up and balanced, he will be constantly aware of the Cash in the Treasurer's hands, and able to avoid any risk of its exceeding the proper amount.

Directions. 322.

G. O. of Novr. 1st, 1831, Para 7. declares that all acts done by Depty. Collr. are subject to his sole responsibility.

On July 15th, 1839, it was also determined by the Supreme Govt. that the Collr.'s responsibility for the money in the Treasury remains undivided, except when for reasons of public convenience, and in an authorized manner, he makes over entire charge of his treasury, taking a receipt for the cash so transferred. When an uncove-

nated Depty. Collr. is placed in charge of a Treasury by an official announcement in the Gazette, he is declared by G. O. Novr. 19, '41. to be "responsible jointly with the Treasurer for the custody of the public money, and for the proper observance of all the prescribed checks, and accounts;" but the Collr. is not thereby exonerated from his general responsibility as head of the office, for the affairs of the Public Treasury.

TREASURY. OFFICER IN CHARGE.

From these orders it may be gathered, that the Collr. whilst in charge of the district, is never relieved from the obligation of maintaining an active supervision over the affairs of the Treasury, and of providing that business is regularly and rightly transacted; but that the pecuniary responsibility for special acts may be devolved on the Depty. Collr. who is placed in charge in an authorized manner.

Note, *Directions.* 323. *Manual.* 74.

Great care must be taken that all items received, are immediately brought to credit. The receipt of the Treasurer renders Collr. responsible for the money, so that if it be not immediately brought to credit, an opening is afforded for embezzlement. This is particularly the case with deposits, and can only effectually be checked by having a Register kept in the Oordoo Departt. of all orders for the receipt of money, with which the credits shown in the accounts should be carefully compared. (See "Treasury Deposits.")

Directions. 325.

Sums should never be debited till they are actually paid away. A lax system has sometimes prevailed, under which sums debited to Govt. have remained in the Treasurer's hands till it suited the convenience of the parties to receive them. This should never be allowed.

Directions. 326.

Such arrangements as may ensure the prevention of Fraud should be made. Care should be taken to protect persons who have to receive money from imposition, and from the vexatious delays occasioned by the cupidity, or insolence, of the underlings in office. It concerns the character of Govt. that Sepoy Remittances should be promptly paid to the proper recipient; and merchants will more readily remit money through the treasury, if confident that they will be treated with consideration. See "Accounts."

Directions. 327.

The daily Receipts and Disbursements should be entered in a Book, and attested by the Officer in Charge before opening the Treasury on the succeeding day. The Cash Balance necessarily tallies with that shown in the Siaha, and Treasurer's books.

Great care should be taken to see that all collections and other receipts are regularly brought to account, and that what is brought to account is really and truly in the Treasury. To meet the ordinary disbursements such portion of the Cash balance as may appear necessary for the purpose, should be placed in the hands of the Treasurer, and the remainder secured under the joint keys of the Collr. and Treasurer.

Manual. 19.

TREASURY. OPIUM.

14.—*Opium.* Opium required for sale in the Mofussil, to be drawn from the Opium department at 5 Rs. per seer of 80 tolahs. The Collr. will *at once* credit the Opium Department, and give duplicate receipts for the quantity of Opium made over, debiting his I. B. with the amount, the drug being at his risk from the day of delivery.

Rules for charging sales and wastage.

The balance in store must be exhibited in the Treasury Account under I. B. as if it were money, and both quantity and amount specifically stated.

All charges of transportation, all risks and wastage, from the moment of despatch to Collr., are charges of Abkarree Department.

With reference to XIII. of 1816, all sums received or paid, on account of illicit dealings in Opium (including all penalties and forfeitures levied under that Regulation) are to be carried to account of Opium Department, and all Opium seized absolutely belongs to that department. Consequently, whenever Collr. is authorized to dispose of confiscated Opium, he should treat it in the same light exactly as the Agent's supplies, by crediting the quantity at 5 Rs. per seer, charging R. C. G. for quantity sold, crediting Abkarree with sales, and exhibiting the quantity unsold in I. B.

In like manner, all fines for illicit dealings in Opium, and all rewards, are to be placed to credit and debit of Opium Department. But all fines levied on Opium venders in reward to concerns of Abkarree should be carried to credit of Abkarree.

Manual. 63.

PENSIONS.

15.—*Pensions,* see "Pensions," and *Manual,* 65.

PICE.

16.—*Pice,* see "Coin." Government will not consent to sustain loss from the irregular receipt of Trisoolee Pice.

Accountant Genl. 85, July 10, '44.

Statement required relative to Copper Currency.

Acct. Novr. 5, '41.

One to be sent immediately after the close of each official year.

Acct. Feby. 3, '43.

Trisoolee Pice no longer a legal tender.

Manual. 44. XIII. 44.

Fractional parts of the Pie not to be noted in the accounts.

Acct. May 4, '44.

Monthly return of proportions of Silver and Copper received from Stamps and Post-office, no longer required.

Acct. March 1, '47.

Pie pieces to be gradually introduced into circulation through the Tuhseeldars.

Acct. March 27, '45.

Copper only legal tender for fractional parts of a rupee, except when otherwise requested. TREASURY.

When pice become defaced, and much worn, they should not be re-issued, but kept for sale, or transmission to the Mint, as may be ordered. They should be received so long as they bear any mark of original issue from the Government Mint, and can be identified.

When pice are abundant in a Treasury, they should be freely sold to any person taking 5 Rs. worth at a time.

Pie pieces to be introduced as much as possible into the circulation, so as to supersede the use of cowrees; and a large proportion of pie and half anna pieces should always be issued with the pice, whenever any large amount of pice are given in exchange for rupees to the military, or others. Local coins should be driven out of circulation as much as possible; but no coercive measures must be resorted to with this object.

Manual. page 44.

17.—*Remittances of Treasure.* Treasure Escorts to be called for as seldom as possible, and so as to be available for other districts, and at favourable seasons of the year. By frequent communications with Shroffs, Collr. may extend a system of negotiations. REMITTANCES OF TREASURE.

The power of calling for Escorts to be vested solely in the S. R.; and henceforward Collrs. are interdicted calling for them without his previous concurrence.

S. R. Octr. 31, '33.

Military Officers escorting Treasure, have not to count it, being only answerable for so many boxes, or bags, said to contain so much Treasure.

300. Jany. 4, '24. G. O. Octr. 15, '32.

Remittances to be sent in English Cast Iron Chests, upon Bhylees, when Board get them from England. Till then, Tumbrils will go on as heretofore. For further rules about Tumbrils, see below.

S. B. IV. 231—234.

Under G. O. Novr. 12, '38, "Every Officer appointed to the command of a Treasure escort, in receiving charge of the Treasure, is to witness the weighment of each box, and give a receipt for its gross weight, as well as for the number of boxes entrusted to his care; and upon delivery he is to require similar receipts from the consignee, for transmission to the remitting Officer."

If Collectors have not got proper scales and weights, they should get them, submitting a Contingent Bill for the expense.

5 per cent. margin allowed for variation of weighing.

S. B. IV. 235—240.

Instructions regarding Treasure remittances to be acknowledged by return of post intimating the probable date, and extent of execution. Collr. should also report promptly the despatch, or arrival, of all cash remittances on the day of occurrence, with copy of Chelan.

Acct. March 3, '45. *Manual.* 69.

TREASURY.

TREASURY. REMITTANCES.

Collectors, Treasurers, and Podars, are all responsible for the contents of the Treasure chests and boxes; and the remitting Collr. is strictly enjoined to satisfy himself by personal inspection that the amount of Treasure described in the Chelan is really contained in the boxes, chests, or tumbrils. Where Treasure is sent in boxes, the weight of each box should be stated in the Chelan, and in the receipts of Officer of Escort.

If one key to tumbril, podar should keep it. If two, Officer to have one. No tumbril, or box to be opened on the road. (The best plan is to seal up each padlock in a cloth bag. This renders any tampering with the lock impossible)

Until receipt of remittance be duly acknowledged, it will remain in I. B. of remitting Officer.

Arrival of remittance to be immediately reported to Accountant, and the Treasure weighed, counted out, and examined, as quickly as possible. Treasure remaining, at the end of a week, or month, unexamined, to be noticed in a Memo. at the foot of the accounts, as Unsorted Treasure.

Treasure to be sent to the Assay Master at Agra, or Mint Master, Calcutta, in boxes of well seasoned wood, clamped with iron, secured with strong rope, and sealed; the ordinary contents 5000; never to exceed 8000 Rs. in one box. Each box should have its number, and zillah, conspicuously marked on the lid, and gunny covering.

The coin should be put in bags of 1000 Rs., and in each bag a slip of paper with number, description, tale, and weight, of its contents. The coins of different descriptions should be carefully sorted.

Each box having to pass an unfordable river, should have a bamboo buoy with 20 cubits of rope. Escort Officers to look carefully after these buoys.

Under 100 miles, one Podar is sufficient. There should never be more than 2 Podars.

In remittances to Agra, or Calcutta, the Treasurer must state whether he sends a Podar at his own expense; or name a person to witness the opening of the boxes; or trust to the honesty of the mint officials. One or other of these modes must be specified in such remittances.

The Treasurer answerable for all base coins, deficiencies, and over-valuations; but not allowed to benefit by any under-valuation.

Manual. 71.

No item on account of specie Remittances will be admitted in monthly contingent bill, unsupported by voucher signed by Accountt.

C. A. March 6, '48.

1. In remitting Treasure to a distant treasury, Collr. should take measures to have his Tumbrils returned to him by the return bullocks from the district where the bullocks are changed, the treasure being transferred into the tumbrils of such district, and taken on thence to its destination. He will, however, provide for the charges of transit for the whole distance, in order that the entire expense incurred may be borne on his accounts.

2. When extra Tumbrils are called for from a neighbouring Magazine, instructions should be sent with them to the Collr. of the district where they are to be charged, or to which they may be consigned, (as circumstances may warrant,) to send such extra Tumbrils into the nearest Magazine, and the receipt of the Officer in charge forwarded

for transmission to the Magazine from which they were originally procured, to account for their disposal.

3. When Treasure is remitted on country Carts, or otherwise, in Boxes, the Podar should bring back the treasure boxes and bags, if possible, on one of the return carts.

4. The Collr. will make it a rule neither to receive bags with money paid into his treasury, nor to issue any bags when making payments to parties.

Acct. Septr. 29, '48.

Collr. may construct temporary Sheds for Tumbrils, where there are no sheds or buildings available. He should be very particular and careful to see that the necessary supply of Tar and Grease is provided, and a careful and intelligent Clashee sent in charge of the Tumbrils, whenever Remittances are made, and that all necessary petty repairs are made before starting.

A half-yearly report on the state of the Tumbrils to be sent to Board on 1st Jany. and 1st July.

S. B. Feby. 2, '49.

1. To obviate all complaints on the part of Officers commanding Treasure parties, of delays and inconvenience arising from the breaking down of Carts, and running away of Carters for want of hire, Collr. should, on every occasion of making a Specie Remittance, make suitable advances to the Cart, or Bullock men, under proper securities, and place funds in charge of the Podar accompanying remittance, for any incidental expenses.

2. Collrs and Magtrs. of districts through which the Remittance is to pass, should invariably be written to, on the despatch thereof, to render prompt assistance to the Officer Commdg. the party, and Podar, in replacing, or relieving, Carts or Bullocks, or in any other manner that may be necessary, to the extent of advancing necessary funds, or supplying Boxes.

3. Any incidental expenses incurred by Podar, should be attested by the Officer commanding the Escort.

4. Specie Remittance passing through to another district, to be carefully looked after and date of its arrival and departure reported to Acctt. On its arrival, the condition of the Carts, Bullocks, and Boxes should be ascertained, and fresh ones supplied if necessary, without delay. Escort parties, and particularly Corps, or Detachments, going in charge of Treasure, must not be delayed; and assistance of every kind needed, must be promptly rendered.

Acct. Septr. 20, '49.

Collr. is authorized to grant drafts on his Tuhseeldarees, in favour of persons paying into the Sudder Treasury in cash, any part of the Mofussil collections; but he will be held responsible that the cash is actually paid in, before the drafts are issued. A separate account should be kept in Collector's office of these transactions; but they need not be entered in Treasury account.

S. B. IV. 230.

Care should be taken that all remittances of Treasure from Mofussil Treasuries should be attested by Tuhseeldar, &c. &c., to insure the whole Treasure being sent, and none kept back by the Tuhseeldar for his own private gain.

S. B. Feby. 7, '43.

TREASURY. REMITTANCES, SIPAHEE.

18.—*Remittances, (Sipahee.)*

Sipahee Remittances only to be drawn by Paymasters, (Septr 1, '20.) but where there is no Paymaster, Collr. may grant similar bills to Sipahees, (and to Lascars by Acct. May 25, '48.) at 10 days sight.

Acct. 268. April 23, '22. *Manual.* 33.

In the case of Soldiery proceeding on Furlough, any reasonable accumulated saving from their pay may be received, and a bill granted; but the saving should be restricted to the period (not exceeding one year) since their last remittance, to prevent abuse by remittance of other funds at the favourable exchange allowed to Soldiers.

Manual. 33.

Such bills are *not* payable "to order," but only to the party named and described in the descriptive roll. Where the party presenting bill does not correspond with the roll, reference should be made to officer of Sipahee's company, for explanation, paying the bill in the interim upon *good security,* unless the person claiming be obviously not the person described.

Manual. 34. Acct. 259. Decr. 12, '20.

Such bills cannot be attached in execution of Decree.

S. D. A. Augt. 20, '49.

Within a month after descriptive roll comes to hand, Collr. is bound either to forward the payee's receipt for the money, or to explain to the Commdg. Officer of the remitter the cause of delay. If Collr. neglect to do this, Commdg. Officer to complain to Commr., who will report the negligence of Collr. to Govt.

G. O. Feby. 28, '46.

As the regular transmission of the Roll has been particularly enjoined by several General Orders, Collr. should in all cases write for it, when one is not duly appended to the Bill.

Manual. 34.

When returning Bombay Paymaster's list of Remittances, on account of deficient information relative to Payee, report to be sent to Accountant, stating the reason, and date of return, and address of Officer.

Acct. 168. March 14, '44. *Manual.* 35.

Madras and Bombay Sipahees on leave, always to be furnished with *printed* furlough-certificates, and descriptive rolls carefully and correctly filled up, annexed.

S. B. IV. 217.

On these they may receive advances of pay due, such being noted on the reverse.

Manual. 75.

The original Certificate, duly receipted on the back by the Payee mentioned therein, as well as the list of remittances, or register of certificates, must invariably be forwarded as vouchers in support of the charge in the Treasury Account against Bombay, or Madras, a copy being retained in Collr.'s records.

Manual. 35.

TREASURY.

If the usual list of remittances has not reached, payment may be made on good security, reporting immediately to Accountant.

Manual. 35.

Collrs. are to be particularly careful that no delay occurs in acknowledging the receipt of Sipahee remittances, and paying them. It is the duty of the Collr., immediately on the receipt of the Certificate of remittance, to summon the Payee to attend at the office, should he reside near the Sudder Station. If he lives in any outlying Pergunnah, the Certificate should be sent to the Tuhseeldar for delivery to the Payee; and the Payee's receipt of it should be forwarded to Collr. Should the Payee not be found, the Tuhseeldar should, within a week, make a return to that effect; and the remitting Officer should be informed accordingly.

S. B. IV. 219. *Manual.* 34.

On Payee's attending at Collector's office, the money should be paid, and his receipt forwarded for the satisfaction of the Remitter, another receipt being taken on the back of the original Certificate.

S. B. IV. 220.

This form of Receipt should be invariably enclosed to the Collector *by the officer forwarding the bill,* to whom, after signature by the Payee, it will be returned for the satisfaction of the Remitter.

Manual. 34.

All these matters should be so arranged that the Remitter may receive speedy intelligence of the Certificate having reached its proper destination; and any delay is without excuse. The Tuhseeldars must be prompt in making their replies, in the form No. 31.; and an English check Register in the form 34, should be laid every week before the Collr., to enable him at one view to ascertain if any of the Tuhseeldars are dilatory in making their returns.

S. B. IV. 221.

Collector to pay strict attention to the above.

Manual. 20.

(It would be a great additional facility if Officers always noted the name of the *Zumeendar,* as well as that of the village, as there are often many villages, of the same name in a pergunnah. The name of the Zumeendar would be the best check; and in case of doubt, the Zumeendar named in the certificate could be called on to state the identity of Payee.)

With reference to G. O. of Septr. 8, '41. in Calcutta Gazette of Septr. 11, Collr. can grant Bills on other Treasuries at 10 days' sight, on application of Payees, in exchange for Drafts payable at his Treasury; but tenders of cash for Bills are to be *invariably declined,* with exception only on account of remittances required on account of Bungalows, or Regimental Mess account, in cases of European Commissioned Officers, and on occasions of Sipahees proceeding on furlough.

Where there is a Paymaster, the duty of granting Bills will be confined to him.

Manual. 33. Acct. Octr. 16, '41.

TREASURY REMITTANCES, SIPAHEE

In paying drafts in favour of Sipahees, the endorsement of the Sipahee, or his own receipt, is necessary. *Such drafts cannot be otherwise paid to the Sipahee's officer,* except in case of Death.

Manual. 34 Acct. Novr. 8, '45.

Collectors to communicate with Bombay Officers through the Military Accountant of Bombay.

Acct Decr. 18, '45

Rules relative to sums paid in on account of estates of deceased Bombay Sipahees.
Acct. Augt 29, '44. *Manual.* 76

Where the Sepoy's Regiment is quartered in the Station, intimation should be given to Commdg Officer, who will cause the Sepoy to be furnished with a certificate of identity, on the strength of which he will receive the amount.

Manual 34.

If the Sepoy be on leave, or command, a note is taken of the remittance, and he is directed to repair to the Treasury on rejoining the Regiment. If, in the interim, the Corps should quit the station, the remittance can be transferred by the Collr, on the application of the Commdg Officer, to the nearest convenient Treasury.

Manual 34.

RUPEES

19.—Rupees. With reference to G. O. Octr 16, '32. and Jany. 29, and July 13, '33, Collr. is authorized to receive from Malgoozars, the Bareilly, *old* Furruckabad, Dehli 38 Sun, Mahomed Shahee, and *old* Lucknow rupees; and, until further orders, the Nujeebabad and Chundousee rupees. The first at a discount of 4 per cent., the three next at 3¼ per cent., *old* Lucknow at 1 per cent, and the two last at 6 per cent. They are to be received by tale, and not by weight, unless there be reason to suspect fraudulent abrasion, when they must be weighed, assuming the weight of 100 Rs. of each denomination according to annexed table. Coins so received are on no account to be re-issued from the Treasury.

S. B IV. 210.

Such Jinswar rupees to be sent to Calcutta viâ Benares, where they will not be opened, but be kept for a good opportunity Should the seals not be right, or there be other injury to the boxes, the receiving Collr. should report immediately to the remitting Collr. Or, if there be reason to suspect that the boxes have been opened, the receiving Officer, in the presence of Officer Commdg. Escort, should open such injured boxes, and, after examination, repack the contents, taking a careful note of them, and affixing his seal and that of Officer Commdg. Escort, who should likewise attest the note of contents, which should be made in his presence. Copies of the note to be sent to S R. and R. A

These Remittances to remain in Inefficient Balance till receipt of Mint Master's certificate. Any bad, or deficient rupees, to be realized from Treasurer the bad ones being returned to him after defacement.

Acct. 463, June 11, '33.

TREASURY.

New Lucknow rupees are *not* receivable.

Acct. Octr. 8, '33.

Plugged and Counterfeit rupees found in a Remittance, to be cut in two in Collector's presence and returned to Podar in charge. Collr. is responsible for any base coins he may admit.

Acct. 431. July 14, '32.

A penalty should be imposed on native officers of Treasuries for receiving short weight rupees and base coins, equal to any difference which may subsequently be detected between their value, and that at which they are credited in account.

S. B. IV. 211.

The interest of all the native officers of Government is opposed to the withdrawal of light weight rupees from circulation. They form their great source of profit. They receive them at a discount, for which they do not allow Government credit; and force them again into circulation at par, from the weight of their official influence. Even the Collr. himself often shrinks from the responsibility of receiving them, keeping them long in his inefficient balance at his personal risk, and afterwards hazarding a tedious correspondence with the Mint Officers as to their intrinsic value.

G. O. 314. Octr. 27, '40.

This is true; but the risk is great. The Mint outturns are not always correct; they are not sent in for months after the Collr. has perhaps left the district, and is unable to prove the correctness of his own valuation; and above all, the remittances of each Zillah are not melted and turned out separately. The whole are, I believe, melted together, and the average outturn reported. This is not fair to the Collr. who may have sent the full weight of bullion, but who may have to make good the deficiency of his neighbours.

Jinswar and Light weight rupees above Allahabad, to be sent to Agra.

Acct. June 30, '41.

Any *spurious* Copper or Silver Coin presented in payment at a Treasury, to be invariably cut in two, and otherwise mutilated, prior to return to the party tendering them. This does *not* apply to uncurrent, or foreign coins.

M. by Sec. 11. XVII. 17, is directed to keep all Counterfeit Coin found in the possession of any person without satisfactory excuse, and to forward the same to the Mint Master, which can most easily be done by remitting them to the Revenue Treasury for transmission to Calcutta.

Manual, page 45.

Light Weight rupees are to be received as Bullion, by weight, and not by tale.

Percentage allowed on oblique milled Furruckabad Rupees,	1	0	8	per cent.
straight, or plain edge, ditto ditto,	1	0	8	
Company's Rupee, ...	2	0	0	

S. B. IV. Appendix XXXII.

TREASURY. RUPEES.

Light weight rupees must not be re-issued, but be reserved in Cash balance until an opportunity offers of sending them down to Calcutta for recoinage, when a remittance will be made under a separate chullan, direct to the Mint Master. Both tale and weight to be exhibited.

Acct. 419. June 30, '31. S. B. IV. 213. *Manual*. 28. 69. 77.

Light weight rupees may be received for stamps, Abkaree, &c. &c., in the same manner as for Land Revenue.

Acct. Feby. 20, '36.

Light weight rupees should be weighed against the *full weight* of their own standard, without any percentage deficiency, which is only allowed so long as the Coin is fit for re-circulation.

Acct. June 26, '33.

In making remittances of light weight, or Jinswar rupees, copies of chullans to be sent to Accountant, and to Finance Secretary of Government of India.

Acct. Feby. 12, '44.

Para. 6. Acct. 111, Septr. 29, '41, upset. Only those light weight rupees are to be cut, which have been received into the Treasury as Bullion.

Acct. Feby. 8, '44.

Short weight rupees, and Jinswar, are kept in circulation by the Treasurers, as every time they are returned to the Treasury, they are subjected to the exaction of Batta, which the Treasurers appropriate to themselves. When the Cash balance indicates the non-receipt of a fair proportion of such coins, the Treasurer should be called to account, and the result noted at the foot of cash balance report. The Collr. should use his very best endeavours to secure the withdrawal of this short weight currency, which presses so heavily on the poorer classes. If he made it generally known that every person from whom Batta is taken on short weight rupees received as Bullion, is entitled and required to have the rupees cut before him in order that the Treasurers may not re-issue them, a great check would be given. An Ishtihar to this effect, in a glazed frame, should be suspended at the door of every Treasury; and chisel, hammer, block, accurate scales and minimum weights, kept ready. Strictly speaking, persons ought not to be allowed to take away light weight rupees once presented at a Government Treasury.

Acct. Septr. 29, '41.

In paying Madras and Bombay bills, Company's rupees to be given for them at par.

Acct. 18. Jany. 11, '36.

Company's Rupee under XVII. 35.

¼ Rupee legal tender only for fractions of a Rupee. (S. 5.)

Gold coin not legal tender. (S. 9.)

With a view to promote circulation of 4 anna pieces, they may be received in payment of demands at Treasury, and should be issued to all who will receive them.

Acct. May 31, '43.

TREASURY.

Short weight, or uncurrent rupees detected in remittances professing to be current rupees, to be made good by Treasurer; or, if amount exceed 500 Rs., a special report to be sent to Accountant. **TREASURY. RUPEES.**

Acct. Jany. 29, '45.

All re-issuable straight and diagonally milled Furruckabad rupees to be reserved for transmission to the Presidency for recoinage. Care to be taken not to include such coins in remittances to the N. W. P.

Acct. March 27, '45.

Remittances of light and Jinswar Rupees, to be reported to Accountant, and Secretary to Government of India, Finance department.

Acct. Feby. 12, '44.

20.—*Savings' Bank.* Rules for the receipt of savings of Pay and Allowances from officers of Establishments. **SAVINGS' BANK.**

Acct. 58. Jany. 20, '34. 520. Decr. 15, '35.

Money can only be received from Government servants.

Military must invest their savings through their own Paymasters, and not through Collector.

Manual. 75.

21.—*Treasurer.* Treasurers divided into 3 classes. **TREASURER.**

Class 1.—Salary, ...	50 Rs.	Security,.....	25,000.
2.—Ditto,.....	80	Ditto, ...	50,000.
3.—Ditto,.....	150	Ditto, ...	100,000.

S. B. IV. 206.

Revision of Securities to be carefully made in January of each year, and a report thereof furnished to Commr.

S. B. IV. 205.

In taking security, property to the prescribed value, whether in Government paper, houses, or land, must be specially pledged to Government, and the Sureties held generally responsible to make up any deficiency which may occur in the Treasury. When the same person is Collectory and Foujdaree Treasurer, the application of the security to both trusts should be duly stated in the Bond.

IV. 207. C. 51. June 5, '40.

The cash amount in the Treasurer's hands should be kept as low as possible.

S. B. IV. 208.

Security Bonds must be carefully drawn up, and registered. "See Security."

The Treasurer has the power of discharging and nominating the pergunnah Tuhveeldars, with whom he may make his own arrangements.

S. B. June 20, '45. IV. 207.

TREASURY.

TREASURY. TREASURER.

The Sudder Treasurer of the District is the only Treasury official from whom security is to be taken. He has power to nominate Tuhveeldars, Purkhyas, and *all* Treasury officials; and, being held by his security bond strictly responsible for their acts, will, as a matter of course, make his own arrangements to secure himself against loss. Any interference on the part of the Collector, between the Treasurer and his subordinates, as regards Security, should be carefully avoided. If a Treasurer is made to furnish ample security for the treasury business of the whole district, he does all that is required, and may be safely left to select his own subordinates, and to make his own terms with them as regards security, without interference on the part of Collr. (I would not trust entirely to the Treasurer, but see that his nominees were respectable men, and that he held good registered security from them. Fitness is generally the very last consideration which actuates a native in making a nomination; and it is quite possible for a Treasurer to conduct business in a lax way, and so injure Govt. whilst ruining himself. The mofussil Tuhveeldars have so much power of oppression, that the Collector is bound to see that they are good and proper men.)

S. B. Augt. 21, '49.

The Accountant says that the Treasurer should only have a Veto on the appointment of Tuhveeldars.

Manual. 82.

Treasurer not to be permitted to have money dealings with the Omlah.

G. O. May 28, '41.

General rules regarding Treasurers.

S. B. IV. 477.

All transactions between the Treasurer and Tuhveeldars should be in hard cash. No hoondees, or rookas, should be permitted.

Manual. 82.

The Treasurer keeps in the muhajunnee character and system a record of all cash transactions consecutively, as occurring, *which he should balance every night before he leaves the Treasury.* His books should remain under his own key in the Treasury, and open at any time to the inspection of the Officer in charge of the Treasury, but they are not filed in the office, or presented for signature. (Why?)

A similar, but differently arranged account is also kept in the vernacular in the Persian character by the Siaha nuvees, who should be always present in the Treasury, and who should enter all receipts as paid in to the Treasury, and all disbursements as made. The entries should be made from the *original* acknowledgments connected with the receipts of money, as all the disbursements should be entered from the warrants for these, in the vernacular language, which are indispensable to their payment. This account which is written in a waste paper book, or chitta, is in fact a mere counterpart of the Treasurer's entries; but from it the intermingled receipts and payments of the day on various accounts are separated and arranged under the appropriate headings, after the Treasury is closed, and this forms the account kept by the Siaha nuvees. The waste book should be sent daily, or if convenient as entries are made, to the Jumma kurch nuvees for comparison and entry in his account.

Manual. 3.

See "Accounts," "Treasury No. 5."

TREASURY.

22.—*Treasuries.* No buildings to be allowed to adjoin Tuhseeldaree Cutcheries. They should be put in as good a state of defence as their construction will admit of, and the guards strong, active men. The Tuhseeldar must be responsible that they are always at their posts. Pucka Treasuries should be made, at a cost of 60 Rs.; with iron chests for remittances to the Sudder Treasury. Not more than 10,000 should ever be kept at Tuhseeldaree.

Manual. 82. S. B. IV. 225. 229.

Tuhseeldars to receive monies from Moonsiffs, and pay out of such deposits such sums as Moonsiffs may direct, (without special order of Collr. D. 311. S. B. IV. 99. 100.)

S. B. Septr. 11, '40.

Magistrates' Treasuries abolished, and their accounts to be kept by Collr. Ferry Fund, Chokeydaree, &c. &c. will remain with M., but the monetary transactions will pass through the Revenue Treasury.

Acct. May 17, '47.

Para. 214. C. No. 4. cancelled. The Mofussil Establishments may in future be paid by Tuhseeldars from their own treasuries, on warrants to that effect duly issued by Collr.

S. B. April 28, '48.

New rules regarding Judicial Treasuries.

Acct. April 24, '48.

Tuhseeldar's accounts are in the Persian character, according to the system of notation called *Siyák*, with which every Revenue Officer should be familiar. The Rules and Forms of account are contained in Directions, Appendix XXVIII. and S. B. III. 103—156. The main check on the accounts consists in the obligation on the Tuhseeldar to despatch every day before he close his office, a copy of the journal, (*Seeaha*) No. 3. shewing all the pecuniary transactions of the day. The Collr. must arrange to ensure the punctual receipt of these, and the comparison of them with the periodical returns furnished by the Tuhseeldar at the middle and close of each month.

Directions. 311.

The head of the office must take good care that the money said to be in the Treasury is actually present. The Treasurer, or Tuhveeldar, should never be allowed to take any of the public money to his own home; the whole should always remain in the public Treasure Chests. No exchange of coins should be permitted without the special sanction of the head of the Office, and then only for the convenience of the public, as giving copper for rupees, or 4 and 8 anna pieces for rupees; but one description of rupee should never be exchanged for another, without the sanction of Accountant.

Manual. 83.

TREASURY. VOUCHERS

23.—*Vouchers.* Care to be taken that no item is entered in the body of the accounts without complete and sufficient vouchers.

Each draft should be examined to see that the endorsement and receipt are correct; and the names of natives should be inserted in English under their signatures, or seals.

Note of the Number and Date of Hookum Khuzanah, attested by Collector, should be inserted on the back of each voucher, and in cases of transfers from one head of account to another, the item of charge should be supported by an attested copy of the Treasury warrant under which the transfer was made.

In retransmitting vouchers returned by Accountant for correction, Collr. should send a short letter indicating No. of voucher, and month's account to which it belongs.

Acct. May 30, '43. *Manual* 9 83.

Bills for different Presidencies to be entered in separate bills, and attested copies of vouchers to be sent in addition to the audited vouchers themselves.

Acct. Septr. 26, '44.

All vouchers to be numbered in red ink, and corresponding numbers marked in the margin of the Treasury or Cash Account with red ink also One voucher, though belonging to different heads, must never bear more than one number, although several vouchers, when supporting a *single* debit, may receive one and the same number.

In order to prevent fraudulent double payments by the withdrawal of vouchers subsequent to payment, it is necessary under S. 11. XXV. 03. to write on the face of every bill, or other document paid, the No. of the warrant issued in payment, as,

"Paid by Warrant No. ——, the —— day of ——, 185 —. Signed A B Collector."

In order to insure this inscription, the Collr. should at the time of signing the warrant, require the simultaneous presentation of the bill for payment of which it is issued, and affix his signature to both papers at the same time.

Manual. 83.

Receipts should in all cases be given and taken in duplicate; and must be taken in triplicate, or quadruplicate, where ordered.

Manual. 68.

MISCELLANEOUS

24.—*Miscellaneous.* Quarterly List of unanswered references, with reasons Scales, if required, to be obtained from Calcutta Mint.

Acct 364. Augt. 13, '28.

To avoid delay in commencing public works, in future when an estimate is sanctioned, copy of the endorsement will be sent direct to the executive Engineer, which will be sufficient authority for the commencement of the work, and for drawing the assignment.

G. O. Septr. 9, '47.

When estimate of Receipts and Disbursements is different from actual amount of last month, an explanation should be given to prevent the necessity of a reference. Care to be taken in preparing and despatching estimates and cash balance reports accurately and punctually on the prescribed dates.

Acct. Octr. 16, '47.

TREASURY.—TRAVELLERS.—TRESPASS.

TREASURY. MISCELLANEOUS.

With a view to ascertain the probable surplus, or deficiency, in each Treasury from the commencement of the Revenue Kists of one half-yearly period, to that of another, an extra column is to be opened in the monthly estimates. Thus the estimate rendered in November, will show the expectancies of November, December and January *separately* as at present; and those of February, March and April *altogether* in the additional column.

Acct. Octr. 25, '47.

All the property of persons dying intestate should be made over to the Civil Court without passing through the Revenue accounts at all; and Judges, when affording credit in their cash accounts for sale proceeds of such property, should cite the date of Government order authorizing the sale, and show the amount appertaining to each party in a separate entry, under the head "To Sale of Unclaimed Property."

Manual. 59.

In replying to Accountant, both number and date of his letter to be cited; and any number of letters to the weight of 12 tolahs, to be enclosed in one envelope.

Manual. 61.

No payment should ever be made without the issue of a warrant, or Hookum Khuzana, to the Treasurer, which should be numbered in a regular annual series, and a register of them kept in vernacular.

S. 11. XXV. 03.

There should be a separate warrant for every separate item of charge; and no warrant should be issued without a written order.

Manual. 84.

Collr. prohibited from receiving *Bags* with money paid into his Treasury, and from issuing any Bags on occasion of making payments to any parties.

Acct. Septr. 29, '48.

Collector may pay 5 Rs. reward for a male or female, Tiger.

Manual. 80.

Also 2 Rs. for female, and 1 R. for male Wolf. The sum to be included in the Revenue Contingent Bill, and, after audit, charged to Revenue Charges General.

Manual. 84.

TRAVELLERS.

TRAVELLERS—to be supplied with provisions, carriage, &c. &c. to the first police station in the next Zillah. Police should fix the rate of hire, and the price of provisions or other necessaries supplied, as well as demand the whole, or a part of such price, to be paid in advance. If traveller refuses to agree he should be left to manage for himself.

S. 8. XI. 06.

TRESPASS.

TRESPASS—Cases of, not to be taken up by Police.

C. 1. S. 12. XX. 17.

TRESPASS.—TROOPS.—TUCCAVEE.—TULUBANA.

TRESPASS.

See "Cattle."

Charges of, to be made to M.

S. 3, VII. 11. See "*Charge*," "*Cattle*."

Trespass is punishable by M. under the general powers.

S. 8. VI. 03. IX. 07. VII. 11. III. 12.

Trespass against estate of person deceased, within 6 months of death, may be prosecuted *by* Executor within one year after death; and *against* Executor within 6 months of death.

XXVI. 41.

The plenary right to the Forest and Waste being with Govt. any person who may go into it and scratch up a bit of land without getting leave, far from creating a right of occupancy, is in fact a trespasser, and has no right to complain if his crop be confiscated.

Commr. 5th. Division, Augt. 12, '48.

TROOPS

TROOPS, see "March of Troops," "Camp Followers," "Cantonment." "Magistrate III. 6."

TUCCAVEE.

TUCCAVEE.—Collr. will see that the money is really wanted for cultivation, and applied to the purpose specified, and not in liquidation of Balances. See detailed rules in Sec. 29. S. B. IV. "*Remission*."

Return of works of permanent utility called for in the annexed form, to enable the Board to judge of the extent to which works for which advances have been sanctioned are actually brought to completion.

S. B. April 27, '47.

A Touzee in the annexed form to be submitted at the close of every quarter (changed to every *half-year* by S. B. Octr. 29, '47.) This form is intended to show what portion of the outstanding advances is due, and the progress made in its collection. Where no advances made, no Touzee required.

S. B. May 21, '47.

TULUBANA.

TULUBANA, see "Land Revenue, No. 1."—S. B. II. 53—86.—"Processes," "Charge."

Form of Statement appended to monthly Hal Touzees.

Acct. Septr. 30, '45.

The monthly surplus collections may be credited in the Treasury account under "Deposits;" but the accumulations or surplus of Tulubana standing on the accounts at the end of each official year should be transferred to the credit of Govt. under "Profit and Loss" in the April accounts; whilst the uncollected balances, less such sums as may have been remitted, must be carried on to the next year's account.

Manual. 11.

TUSHEER.—VAGRANT.—VUKEELS.—WAGERS.—WARDS.

TUSHEER,—abolished by Act. II. 49. **TUSHEER.**

VAGRANT, or disorderly or suspected person, lurking about, without any ostensible means of livelihood, or who shall be unable to give a satisfactory account of himself; to be detained for security. **VAGRANT.**

S. 10. XXII. 93. S. 2. VII. 11.

Darogah should not apprehend Vagrant, till he has ascertained by enquiry that he is of suspicious or notoriously bad character.

C. 149. May 11, '15.

See "*Budmash*," "Security."

VUKEELS, rules regarding. **VUKEELS.**

Sec. 30. S. B. IV.

Civil Judges required to enquire personally into the character of Pleaders in their own and their subordinate Courts, and to order such as may be found wanting in acquirements, to appear before a Committee of Examination consisting of Judge, M., and P. S. A. Attention called to C. 138. Augt. 3, '46. as to Judge reporting 6 weeks previously.

S. D. A. Decr. 13, '47.

WAGERS. All agreements, whether made in speaking, writing, or otherwise, by way of gaming or wagering, shall be null and void; and no suit shall be allowed in any Court of Law, or Equity, for recovering any sum of money or valuable thing alleged to be won on any wager, or entrusted to any person to abide the event of any game, or on which any wager is made. **WAGERS.**

XXI. 48.

WARDS, Court of. Collr. is not competent to give an allowance to the illegitimate children of a deceased Zumeendar, whose claims must be decided by Civil Court. If the mother of the minors is considered capable of managing the property, a report should be made to that effect. If otherwise, a brief statement should be submitted of the death of the Zumeendar, the state of his legitimate family, and the number and jumma of mouzahs composing his estate, with the ages of the minors, in order that authority may be obtained for Court of Wards. **WARDS.**

R. Bird, June 15, '31.

Minor in Court of Wards is not entitled to command the aid of the Govt. Vukeel.

Con. 335. Feby. 2, '21.

WARRANT. WARRANT, see "Process," "Summons," "Resistance."

No warrant for apprehension of any person shall be issued at the instance of a Complainant, unless the charge is sworn to by complainant, or some credible person on his behalf.

S. 4. IX. 07. C. 6. S. 2. III. 12. C. 19. April 3, '29.

M. can give effect to sentences passed by Criminal Courts in territories not subject to the operation of the General Regulations.

IX. 22.

No person shall be arrested by a warrant in which his name is not expressly inserted.

C. 141. July 7, '43.

But may be seized in the act, or on hue and cry, without a warrant.

C. 4. S. 29. II. 17.

On proof that notwithstanding due diligence, a Summons could not be served, Warrant for apprehension of Defendant in criminal case to be issued.

X. 45.

For warrants of imprisonment, see "Prisoners I. 6. Register of Admission and Release."

For Treasury warrants, see "Accounts."

WELLS. WELLS, on occasion of accidental death by falling into, the owners to be admonished, and required to adopt such measures as may be necessary to prevent recurrence of accident.

C. 191, Octr. 21, '17.

WIFE. WIFE.—Any person deserting his wife, and wilfully neglecting to provide for her support, unless for good cause, such as adultery, or abandoning his protection; to be required to execute a Mochulkah to provide for her maintenance; in default, one month's imprisonment.

S. 3. VII. 19. Con. 992. Decr. 18, '35.

See "Children."

A Wife should not be called on to give evidence against her husband, except in cases of urgent necessity.

N. A. R. II. 149.

Husband and Wife should not be indicted jointly as receivers of stolen property found in their house, unless it be in evidence that the latter acted independently, and not under the influence of her husband.

N. A. R. VI. 92.

WITNESSES.

WITNESSES, see "Commitment, No. IV. Evidence," "Charge," "Summons," "Diet Money," "Perjury."

No process to be issued for attendance of witness in petty case, till sufficient Diet Money has been deposited with Nazir; M. regulating the amount with reference to the probable detention.

VII. 46. S. 2. III. 12. Con. 221. Septr. 8, '15.

Summons to be issued, requiring attendance of witness in Court on a certain day.

S. 2. L. 03.

If witness duly summoned does not attend; or attending shall refuse to give evidence, or to attest his deposition; M., if it be proved on oath that his evidence is material to the case, shall order Nazir to seize and bring him before the Court. If a witness refuse to give evidence, he shall, in the first instance, be put in custody, and be called on after the interval of a day, to give his evidence; should he persist in refusing; 500 Rs., or Civil Jail till it be paid, or for such period as may be fixed in lieu of fine; or, if the trial be depending, until he give his evidence, after which he shall be released.

C. 2. S. 2. L. 03.

A trial shall not be postponed for the evidence of a witness so confined, longer than the Court deems proper.

C. 3. S. 2. L. 03.

M. can summon a witness, although he may not have been named in the case.

Con. 78. Feby. 14, '11.

On a Defendant objecting to the examination of his own witnesses, their evidence shall not be taken.

Con. 1203. March 15, '43.

Attachment cannot be issued against a witness upon whom a Summons has not been duly served. See S. 2. L. 03.

Con. 698. June 8, '32.

Fines on witnesses to be reported to S. J.

C. 4. S. 2. L. 03.

Evidence of female of rank may be taken by commission of 3 credible women.

S. 2. L. 03.

Witnesses within limits of Supreme Court.

XXIII. 40.

Judges and Magistrates will see that all processes forwarded to Deputy Sheriff are drawn up correctly.

C. 76. Decr. 18, '40. C. 82. March 1, '41.

WITNESSES. Thanna witnesses, rules regarding.

S. 23. XX. 17.

Evidence of witnesses ought always to be taken by M. or by Assistant; but in case of exigence, and in trivial cases, may be taken and attested by Head Native Officer, *in the presence* of M. C. 220. Jany. 27, '37. M. ought not to permit examinations to be taken by Native Officers in the absence of himself, or his Assistant.

C. 102. May 11, '32.

No one incapacitated, by Crime, or Interest, from giving evidence.

Act VII. 44.

All examinations of Parties and Witnesses are to be taken down in the language and character in which the person examined may desire to have it recorded.

C. 1. S. 18. VII. 03.

For Witnesses in Military Courts, see "Camp Followers," "Cantonments."

Indigent prosecutors and witnesses at the Sessions, to receive 2 annas a day in the presence of the Judge; as also at the same rate for coming and going from their homes. The Judge to be careful that there is no cheatery.

C. 75. Septr. 6, '10. C. 125. Novr. 16, '32. C. 59. Augt. 7, '40.

Indigent witnesses must on all occasions, whether before S. J. or M., be supported either by Prosecutor, or the State.

C. 59. Augt. 7, '40.

Diary to be kept of witnesses in attendance on Criminal Courts, so as to prevent their detention.

C. 194. Jany. 22, '45.

It is objectionable to examine a witness for the defence, when prisoner objects to call him, on the ground that he had been tampered with.

Con. 1203, March 30, '39.

Besides the name of witness, the name of his father, his religion, caste, profession, age, or apparent age, and the village and purgunnah in which he resides, should be specified.

C. 4. S. 7. IV. 1797.

Opinion of Company's standing Counsel relative to citation of European Witnesses before Supreme Court.

"Any person within the range of the process of the Supreme Court is liable to be called upon by subpœna, to give evidence in a matter pending judicially before the Court, whether Civil or Criminal. If he be resident beyond the local Calcutta jurisdiction, he is *not* bound to attend in *Civil* cases unless his expenses of coming and

returning and of his stay there, be tendered to him by the party serving the subpœna. In criminal cases, where the subpœna is served on the part of the Crown, it is in England not usual to tender the expenses beforehand; but the expenses of the witnesses for the Crown are borne by the counties, and often advanced to the poorer witnesses by the Constables, or the Attorney of the prosecutor. Witnesses on behalf of the Prisoner are entitled to have their expenses paid as in Civil cases.

WITNESSES.

"In either case the witness may attend or not *at his peril.* If under a recognizance to appear, it is of course to estreat his recognizance in case of his default to appear *when and if* called upon. But it is always open to him to apply to be discharged of the recognizance on the ground of sickness, inability to attend, or the like, of which the Court will judge. If he fails to appear on subpœna, the course is to apply for an attachment, or affidavit of service of subpœna, and in case of a Mofussil witness, the affidavit must go on to shew the witness to have been a material witness. Cause may be shewn against the attachment on like grounds as above in case of recognizance: also on the ground of immateriality, non-tender of expenses, want of sufficient notice, &c. &c. These are the general rules.

"In Civil cases there is now a power of issuing Commissions for examination of witnesses at a distance; and this power is generally exercised when the witness is more than 20 miles distant. In Criminal cases there is no such power, except in prosecution instituted in England.

"The Court makes no difference between *Officials* or non-officials, or any allowance for *Rank*, except in that of expenses to be tendered. But in the case of an Official detained by public duty, or unable to move without the sanction of his superiors, the Court would be more easily satisfied with the excuse for non-attendance. In practice it is considered almost necessary to give sufficient previous notice to allow of provision being made for the absence of the Official; and if it be represented officially that he cannot be spared, it is ground for the postponement of the trial."

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